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सं. 4] नई दिल्ली, जनवरी 21—जनवरी 27, 2007, शनिवार/माघ 1—माघ 7, 1928
No. 4] NEW DELHI, JANUARY 21—JANUARY 27, 2007, SATURDAY/MAGHA 1—MAGHA 7, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)
नई दिल्ली, 16 जनवरी, 2007

का.आ. 212.—केंद्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री अमीनुद्दीन अहमद खान, अधिवक्ता, पटना को विचारण न्यायालयों में दिल्ली विशेष पुलिस इम्पना (के.अ. ब्यूरो) द्वारा पटना, बिहार राज्य में संस्थित और उन्हें वीय अन्वेषण ब्यूरो द्वारा सौंपे गए मामलों के अभियोजन और विधि द्वारा स्थापित पुनरीक्षण अथवा अपील न्यायालयों में इन मामलों से उद्भूत अपीलों/पुनरीक्षणों अथवा अन्य विषयों का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[सं. 225/17/2006-एवीडी-II]
चंद्र प्रकाश, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSIONS
(Department of Personnel and Training)

New Delhi, the 16th January, 2007

S. O. 212.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government

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(369)

hereby appoints Shri Aminuddin Ahmad Khan, Advocate, Patna as Special Public Prosecutor for conducting prosecution of cases instituted by the Delhi Special Police Establishment (CBI) in the State of Bihar at Patna as entrusted to him by the Central Bureau of Investigation in the trial courts and appeals/revisions or other matter arising out of these cases in revisional or appellate courts established by law.

[No. 225/17/2006-AVD-II]

CHANDRA PRAKASH, Under Secy.

वित्त मंत्रालय
(राजस्व विभाग)

केन्द्रीय उत्पाद शुल्क, कोलकाता-III आयुक्तालय
कोलकाता, 10 जनवरी, 2007

सं. 1/2007-सीमा शुल्क (एनटी)

का.आ.सं. 213.—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली की अधिसूचना सं. 33/94-सी. शु. (एनटी) दिनांक 1-7-94 तथा एम एफ (डी आर) परिपत्र सं. 31/2003-सी.शु., दिनांक 7-4-2003 के साथ पठनीय सीमा शुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 में प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार, संचार एवं सूचना तकनीकी मंत्रालय, साफ्टवेयर

टेकनालाजी पार्क, कोलकाता के निदेशक, एस.डी.एफ. भवन (चतुर्थ तल), सार्ल्ट लेक, ब्लॉक-जी.पी., सेक्टर-V, विधान नगर कोलकाता-700 091 के द्वारा यथास्वीकृत पश्चिम बंगाल राज्य के सीमांकित परिसर, डी एल एफ आई टी पार्क, न्यू टाउन, राजारहाट, 24-परगना (उत्तर), कोलकाता-700 156 को, मैं एतद्वारा सीमित प्रयोजन हेतु 100% निर्यातोनमुखी उपक्रम के रूप में एक भण्डारण स्टेशन घोषित करती हूँ।

[सी. सं. वी(19)/03-के उ शु/तक/कोल-III/2006]

श्रीमती कुसुम सत्पथी, आयुक्त

MINISTRY OF FINANCE

(Department of Revenue)

OFFICE OF THE COMMISSIONER OF CENTRAL
EXCISE, KOLKATA-III

Kolkata, the 10th January, 2007

No. 1/2007-Customs (NT)

S.O. 213.—In exercise of the powers under Section 9 of the Customs Act, 1962 (52 of 1962) read with Notification No. 33/94-Customs (NT), dated 1-7-1994 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, and M.F. (D.R.) Circular No. 31/2003-Customs, dated 7-4-2003, I hereby declare DLF IT Park, New Town, Rajarhat, 24 Parganas (North), Kolkata-700 156 in the State of West Bengal to be warehousing station under the Customs Act, 1962 (52 of 1962) for the limited purpose of setting up 100% Export Oriented Undertaking as approved by the Director, Software Technology Park, Kolkata, Ministry of Communication & Information Technology, Government of India, SDF Building (4th Floor), Salt Lake, Block-GP, Sector-V, Bidhannagar, Kolkata-700 091.

[C. No. V(19)03/CE/Tech/Kol-III/2006]

Smt. KUSUM SATAPATHY, Commissioner

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 16 जनवरी, 2007

का.आ. 214.—निक्षेप बीमा और प्रत्यय गारंटी निगम अधिनियम, 1961 (1961 का 47) की धारा 6 की उप-धारा (2) के खण्ड (ii) के साथ पठित धारा 6 की उप-धारा (1) के खण्ड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात, एतद्वारा, श्री अश्विनी कक्कड़ को अधिसूचना जारी किए जाने की तारीख से तीन वर्ष की अवधि के लिए या उनका उत्तराधिकारी नामित किए जाने तक जो भी पहले हो, निक्षेप बीमा और प्रत्यय गारंटी निगम (डीआईसीजीसी) के निदेशक मण्डल में अंशकालिक गैर-सरकारी निदेशक के रूप में नामित करती है।

[फा. सं. 7/12/95-बीओ-I]

जी. बी. सिंह, उप-सचिव

(Department of Economic Affairs)

(BANKING DIVISION)

New Delhi, the 16th January, 2007

S. O. 214.—In exercise of the powers conferred by clause (e) of sub-section (1) of Section 6 read with clause (ii) of sub-section (2) of the Section 6 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), the Central Government, in consultation with Reserve Bank of India, hereby nominates Shri Ashwini Kakkar, as part-time Non-official Director on the Board of Deposit Insurance and Credit Guarantee Corporation (DICGC) for a period of three years from the date of notification or until his successor is nominated, whichever is earlier.

[F.No. 7/12/95-BO-I]

G. B. SINGH, Dy. Secy.

(व्यय विभाग)

नई दिल्ली, 17 जनवरी, 2007

का.आ. 215.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में भारतीय लेखापरीक्षा और लेखा विभाग के निम्नलिखित कार्यालयों को, जिनके अस्सी प्रतिशत कर्मचारीवृंद ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :-

1. महालेखाकार, छत्तीसगढ़, रायपुर।
2. प्रधान निदेशक वाणिज्यिक लेखापरीक्षा एवं पदेन सदस्य लेखा परीक्षा बोर्ड-II, कोलकाता, शाखा रांची।
3. प्रधान निदेशक लेखापरीक्षा, पश्चिम मध्य रेलवे, जबलपुर।
4. क्षेत्रीय प्रशिक्षण संस्थान, इलाहाबाद।
5. महालेखाकार, उत्तरांचल, देहरादून।
6. प्रधान निदेशक वाणिज्यिक लेखापरीक्षा एवं पदेन सदस्य लेखापरीक्षा बोर्ड-II, मुम्बई, शाखा बड़ोदरा।
7. महानिदेशक लेखापरीक्षा, डाक-दूरसंचार, दिल्ली, शाखा अहमदाबाद।
8. प्रधान निदेशक वाणिज्यिक लेखापरीक्षा एवं पदेन सदस्य लेखापरीक्षा बोर्ड-IV, नई दिल्ली, शाखा मुम्बई।
9. महानिदेशक लेखापरीक्षा, डाक-दूरसंचार, दिल्ली, शाखा मुम्बई।
10. क्षेत्रीय प्रशिक्षण संस्थान, मुम्बई।
11. क्षेत्रीय प्रशिक्षण संस्थान, नागपुर।
12. प्रधान महालेखाकार (सिविल लेखापरीक्षा), आंध्र प्रदेश, हैदराबाद।
13. महालेखाकार (वाणिज्यिक एवं प्राप्ति लेखापरीक्षा), आंध्र प्रदेश, हैदराबाद।
14. प्रधान निदेशक वाणिज्यिक लेखापरीक्षा एवं पदेन सदस्य लेखापरीक्षा बोर्ड, हैदराबाद।

15. प्रधान निदेशक, लेखापरीक्षा, दक्षिण मध्य रेलवे, सिकंदराबाद ।
16. महालेखाकार (लेखा एवं हकदारी), आन्ध्रप्रदेश, हैदराबाद ।
17. प्रधान महालेखाकार (लेखापरीक्षा), असम, गुवाहाटी ।
18. महालेखाकार, गोवा ।
19. प्रधान निदेशक, लेखापरीक्षा, वैज्ञानिक विभाग, नई दिल्ली, शाखा बेंगलूर ।
20. प्रधान महालेखाकार (लेखापरीक्षा), पश्चिम बंगाल, कोलकाता ।
21. प्रधान निदेशक, लेखापरीक्षा (आयुध कारखाने), कोलकाता, शाखा कोलकाता ।
22. महानिदेशक, लेखापरीक्षा डाक-दूरसंचार, दिल्ली, शाखा कोलकाता ।

[फा.सं. ए-12034/01/2006-ई.जी.]

महेन्द्र कुमार, उप सचिव

(Department of Expenditure)

New Delhi, the 17th January, 2007

S.O. 215.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (use for Official Purposes of the Union) Rules 1976, the Central Government hereby notifies the following offices of the Indian Audit and Accounts Department, in which eighty per cent of the staff have acquired the working knowledge of Hindi :—

1. Accountant General, Chhattisgarh, Raipur.
2. Principal Director of Commercial Audit & Ex Officio Member Audit Board-II, Kolkata, Branch at Ranchi.
3. Principal Director of Audit, West Central Railway, Jabalpur.
4. Regional Training Institute, Allahabad.
5. Accountant General, Uttaranchal, Dehradun.
6. Principal Director of Commercial Audit & Ex Officio Member Audit Board-II, Mumbai, Branch at Baroda.
7. Director General of Audit, P&T Delhi, Branch at Ahmedabad.
8. Principal Director of Commercial Audit & Ex Officio member Audit Board-IV, New Delhi, Branch at Mumbai.
9. Director General of Audit, P&T Delhi, Branch at Mumbai.
10. Regional Training Institute, Mumbai.
11. Regional Training Institute, Nagpur.
12. Principal Accountant General (Civil Audit), Andhra Pradesh, Hyderabad.
13. Accountant General (Commercial & Receipt Audit), Andhra Pradesh, Hyderabad.
14. Principal Director of Commercial Audit & Ex Officio Member Audit Board, Hyderabad.

15. Principal Director of Audit, South Central Railway, Secunderabad.
16. Accountant General (A&E), Andhra Pradesh, Hyderabad.
17. Principal Accountant General (Audit), Assam, Guwahati.
18. Accountant General, Goa.
19. Principal Director of Audit, Scientific Deptt. New Delhi, Branch at Bangalore.
20. Principal Accountant General (Audit), West Bengal, Kolkata.
21. Principal Director of Audit, (O F), Kolkata, Branch at Kolkata.
22. Director General of Audit, P & T Delhi, Branch at Kolkata.

[F.No. A-12034/01/2006-EG]

MAHENDRA KUMAR, Dy. Secy.

सांख्यिकी और कार्यक्रम कार्यान्वयन मंत्रालय

नई दिल्ली, 16 जनवरी, 2007

का.आ. 216.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, सांख्यिकी और कार्यक्रम कार्यान्वयन मंत्रालय के निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, भारत के राजपत्र में अधिसूचित करती है :—

1. औद्योगिक सांख्यिकी स्कंध, केन्द्रीय सांख्यिकीय संगठन, कोलकाता ।
2. समंक विधायन प्रभाग, राष्ट्रीय प्रतिदर्श सर्वेक्षण संगठन, कोलकाता ।

[सं. ई-11011/2/2006-हिंदी]

अरुण कुमार सक्सेना, संयुक्त सचिव

MINISTRY OF STATISTICS AND PROGRAMME IMPLEMENTATION

New Delhi, the 16th January, 2007

S.O. 216.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (use for official purposes of the Union) Rules 1976, the Central Government hereby notifies the following offices of the Ministry of Statistics and Programme Implementation in the Gazette of India where 80 per cent of the staff have acquired the working knowledge of Hindi :—

1. Industrial Statistics Wing, Central Statistical Organisation, Kolkata.
2. Data Processing Division, National Sample Survey Organisation, Kolkata.

[No. E-11011/2/2006-Hindi]

A. K. SAXENA, Jt. Secy.

पृथ्वी विज्ञान मंत्रालय

नई दिल्ली, 17 जनवरी, 2007

का.आ. 217.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, भारत मौसम-विज्ञान विभाग के अधीन, जो पृथ्वी विज्ञान मंत्रालय का अधीनस्थ कार्यालय है, निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है अर्थात् :-

1. मौसम विज्ञान के उपमहानिदेशक (उपरितन वायु उपकरण) का कार्यालय, नई दिल्ली।
 2. खगोल विज्ञान केन्द्र, कोलकाता।
 3. प्रादेशिक मौसम केन्द्र, मुंबई।
 4. मौसम कार्यालय/रेडियो सांघे/रेडियो बिंड, ग्वालियर।
2. यह अधिसूचना राजपत्र में प्रकाशन की तारीख से प्रवृत्त होगी।

[सं. मविम/1/29/2006-राजभाषा]

दिनेश कुमार, निदेशक

MINISTRY OF EARTH SCIENCES

New Delhi, the 17th January, 2007

S.O. 217.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (use for official purposes of the Union) Rules 1976, the Central Government hereby notifies the following offices, under the India Meteorological Department, a subordinate office of the Ministry of Earth Sciences, whereof more than 80 per cent staff have acquired the working knowledge of Hindi, namely :—

1. Office of the Deputy Director General of Meteorology (Upper Air Instrument), New Delhi.
2. Positional Astronomy Centre, Kolkata.
3. Regional Meteorology Centre, Mumbai.
4. Meteorological office/Radio Sonde/Radio wind, Gwalior.

2. This notification shall come into force from the date of publication in the Official Gazette.

[No. MoOD/1/29/2006-OL]

DINESH KUMAR, Director

परमाणु ऊर्जा विभाग

(सामान्य सेवा संगठन)

कल्पाकम, 8 जनवरी, 2007

का.आ. 218.—पूर्व अधिसूचना संख्या सासेस/17(27)/2005-भ/525 दिनांकित 06-06-2005 के अधिक्रमण में लोक परिसर (अप्राधिकृत अधिभागी के निष्कासन) अधिनियम, 1971 की धारा 3 के अंतर्गत भारत सरकार, परमाणु ऊर्जा विभाग के अथवा उसके प्रशासनिक नियंत्रण में आनेवाले परिसरों हेतु सक्षम प्राधिकारी

श्री एस. विवेक आनन्द, प्रशासनिक अधिकारी-III, सासेस के स्थान पर श्री के. एस. पिल्लै, प्रशासनिक अधिकारी-III, सासेस को संपदा अधिकारी के रूप में नियुक्त करते हैं।

[सं. सासेस/17(27)/2007-भ/21]

टी. वाई. प्रह्लाद राव, मुख्य प्रशासनिक अधिकारी

DEPARTMENT OF ATOMIC ENERGY

(General Services Organisation)

Kalpakkam, the 8th January, 2007

S.O. 218.—In supersession of earlier Notification No. GSO/17(27)/2005-R/525 dated 6-6-2005, the Competent Authority appoints Shri K. S. Pillai, Administrative Officer-III, GSO as Estate Officer under Section 3 of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for the Premises belonging to or under the administrative control of the Department of Atomic Energy, Government of India in Kalpakkam and Anupuram in place of Shri S. Vivek Anand, Administrative Officer-III, GSO.

[No. GSO/17(27)/2007-R/21]

T. Y. PRAHALAD RAO, Chief Administrative Officer

स्वास्थ्य और परिवार कल्याण मंत्रालय

नई दिल्ली, 11 जनवरी, 2007

का.आ. 219.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, स्वास्थ्य और परिवार कल्याण मंत्रालय के अंतर्गत, आने वाले निम्नलिखित कार्यालय को, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:-

1. संयुक्त निदेशक,
केन्द्रीय सरकार स्वास्थ्य योजना का कार्यालय,
देहरादून।

[सं. ई-11012/1/94-रा.भा.कार्या. (हिंदी-I)]

श्रीमती वंदना शर्मा, मुख्य लेखा नियंत्रक

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 11th January, 2007

S.O. 219.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following office under the Ministry of Health & Family Welfare, where of 80 per cent staff have acquired the working knowledge of Hindi :—

1. Office of the Joint Director,
Central Government Health Scheme;
Dehradun.

[No. E.-11012/1/94-O.L.I (Hindi-I)]

Mrs. VANDANA SHARMA, Chief Controller of Accounts

(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 4 जनवरी, 2007

का.आ. 220.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात् उक्त अधिनियम की प्रथम अनुसूची में एतद्वारा निम्नलिखित और संशोधन करती है, अर्थात् :-

उक्त अनुसूची में—

(क) शीर्षक “मान्यताप्राप्त चिकित्सा अर्हता” [इसके पश्चात् स्तंभ (2) के रूप में उल्लिखित] के अन्तर्गत “राजीव गांधी स्वास्थ्य विज्ञान विश्वविद्यालय” के सामने, अंतिम प्रविष्टि तथा शीर्षक ‘पंजीकरण के लिए संक्षेपण’ [इसके पश्चात् स्तंभ (3) के रूप में उल्लिखित] के अन्तर्गत उससे संबंधित प्रविष्टि के बाद, निम्नलिखित जोड़ा जाएगा, अर्थात् :-

2	3
अस्थि रोग विज्ञान में डिप्लोमा	डी. आर्थो,
डी. आर्थो.	(यह एक मान्यताप्राप्त चिकित्सा अर्हता होगी यदि यह जून, 2005 में अथवा उसके बाद प्रदान की गई हो।)

(ख) शीर्षक “मान्यताप्राप्त चिकित्सा अर्हता” [इसके पश्चात् स्तंभ (2) के रूप में उल्लिखित] के अन्तर्गत “तमिलनाडु डा. एम जी आर आयुर्विज्ञान विश्वविद्यालय” के सामने, अंतिम प्रविष्टि तथा शीर्षक ‘पंजीकरण के लिए संक्षेपण’ [इसके पश्चात् स्तंभ (3) के रूप में उल्लिखित] के अन्तर्गत उससे संबंधित प्रविष्टि के बाद, निम्नलिखित जोड़ा जाएगा, अर्थात् :-

2	3
मास्टर आफ सर्जरी	एम एस (नेत्र विज्ञान)
(नेत्र विज्ञान)	(यह एक मान्यताप्राप्त चिकित्सा अर्हता होगी यदि यह अगस्त, 2005 में अथवा उसके पश्चात् प्रदान की गई हो।)

(ग) शीर्षक “मान्यताप्राप्त चिकित्सा अर्हता” [इसके पश्चात् स्तंभ (2) के रूप में उल्लिखित] के अन्तर्गत “राजस्थान विश्वविद्यालय” के सामने, अंतिम प्रविष्टि तथा शीर्षक ‘पंजीकरण के लिए संक्षेपण’ [इसके पश्चात् स्तंभ (3) के रूप में उल्लिखित] के अन्तर्गत उससे संबंधित प्रविष्टि के बाद, निम्नलिखित जोड़ा जाएगा, अर्थात् :-

2	3
बाल स्वास्थ्य में डिप्लोमा	(डी सी एच)
(डी सी एच)	(यह एक मान्यताप्राप्त चिकित्सा अर्हता होगी यदि यह 1987 में अथवा उसके पश्चात् प्रदान की गई हो।)

(घ) शीर्षक “मान्यताप्राप्त चिकित्सा अर्हता” [इसके पश्चात् स्तंभ (2) के रूप में उल्लिखित] के अन्तर्गत “कलकाता विश्वविद्यालय” के सामने, अंतिम प्रविष्टि तथा शीर्षक ‘पंजीकरण के लिए संक्षेपण’ [इसके पश्चात् स्तंभ (3) के रूप में उल्लिखित] के अन्तर्गत उससे संबंधित प्रविष्टि के बाद, निम्नलिखित जोड़ा जाएगा, अर्थात् :-

2	3
डाक्टर आफ मेडिसिन	एमडी (क्षय रोग एवं श्वसन रोग)
(क्षय रोग एवं श्वसन रोग)	(यह एक मान्यताप्राप्त चिकित्सा अर्हता होगी यदि यह 1975 में अथवा उसके पश्चात् प्रदान की गई हो।)

(ङ) शीर्षक “मान्यताप्राप्त चिकित्सा अर्हता” [इसके पश्चात् स्तंभ (2) के रूप में उल्लिखित] के अन्तर्गत “असम विश्वविद्यालय” के सामने, अंतिम प्रविष्टि तथा शीर्षक ‘पंजीकरण के लिए संक्षेपण’ [इसके पश्चात् स्तंभ (3) के रूप में उल्लिखित] के अधीन उससे संबंधित प्रविष्टि के बाद, निम्नलिखित जोड़ा जाएगा, अर्थात् :-

2	3
मास्टर आफ सर्जरी	एम एस (ई एन टी)
मास्टर आफ सर्जरी	एम एस (सामान्य सर्जरी)
मास्टर आफ सर्जरी	एम एस (नेत्र विज्ञान)
(नेत्र विज्ञान)	डी ओ
नेत्र विज्ञान में डिप्लोमा	(ये मान्यताप्राप्त चिकित्सा अर्हताएं होंगी यदि ये 1988 में अथवा उसके पश्चात् प्रदान की गई हों।)
(डी ओ)	

[सं. यू-12012/6/2006-एम. ई.(पी-II)]

एस.के. मिश्रा, अवर सचिव

(Department of Health and Family Welfare)

New Delhi, the 4th January, 2007

S.O. 220.—In exercise of the powers conferred by Sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :-

In the said Schedule—

(a) against “Rajiv Gandhi University of Health Sciences” under the heading ‘Recognized Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and the entry relating thereto under the heading ‘abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted, namely :—

2	3
Diploma in Orthopaedics	D. Ortho
D. Ortho	(This shall be recognized medical qualification when granted on or after June, 2005).

(b) against "The Tamil Nadu Dr. MGR Medical University" under the heading 'Recognized Medical Qualification' [hereinafter referred to as column (2)], after the last entry and the entry relating thereto under the heading 'abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted namely :—

(2)	(3)
Master of Surgery (Ophthalmology)	MS (Ophthalmology) (This shall be recognized medical qualification when granted on or after August, 2005).

(c) against "Rajasthan University" under the heading 'Recognized Medical Qualification' [hereinafter referred to as column (2)], after the last entry and the entry relating thereto under the heading 'abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely :—

(2)	(3)
Diploma in Child Health (DCH)	DCH (This shall be recognized medical qualification when granted on or after 1987).

(d) against "Calcutta University" under the heading 'Recognized Medical Qualification' [hereinafter referred to as column (2)], after the last entry and the entry relating thereto under the heading 'abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely :—

(2)	(3)
Doctor of Medicine (TB & Resp. Diseases)	MD(TB & Resp. Diseases) (This shall be recognized medical qualification when granted on or after 1975).

(e) against "Assam University" under the heading 'Recognized Medical Qualification' [hereinafter referred to as column (2)], after the last entry and the entry relating thereto under the heading 'abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely :—

(2)	(3)
Master of Surgery (ENT)	MS (ENT)
Master of Surgery (General Surgery)	MS (General Surgery)
Master of Surgery (Ophthalmology)	MS (Ophthalmology)
Diploma in Ophthalmology (DO)	DO (This shall be recognized medical qualification when granted on or after 1988).

[No. U-12012/6/2006-ME (P-II)]
S. K. MISHRA, Under Secy.

विद्युत मंत्रालय

नई दिल्ली, 15 जनवरी, 2007

का.आ. 221.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, पावरग्रिड कारपोरेशन ऑफ इंडिया लि. गुडगांव के प्रशासनिक नियंत्रणाधीन पावरग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड, पारेख लाईन कार्यालय, गांव रचोली, डाकघर : खनेरी, तहसील-रामपुर, बुशहर, जिला शिमला (हि.प्र.)-172001, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

[सं. 11017/2/2007-हिन्दी]

हरीश चन्द्र, संयुक्त सचिव

MINISTRY OF POWER

New Delhi, the 15th January, 2007

S.O. 221.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (use for official purposes of the Union) Rules 1976, the Central Government hereby notifies Powergrid Corporation of India Ltd., Transmission Line Office, Vill : Racholi, P.O. Khaneri, Tehsil Rampur, Bushahar, Distt. Shimla (HP)-172201, under the administrative control of Powergrid Corporation of India Ltd., Gurgoan, the staff whereof have acquired 80% working knowledge of Hindi.

[No. 11017/2/2007-Hindi]

HARISH CHANDRA, Jt. Secy.

नागर विमानन मंत्रालय

नई दिल्ली, 17 जनवरी, 2007

का.आ. 222.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, नागर विमानन मंत्रालय के अधीन उपक्रमों, भारतीय विमानपत्तन प्राधिकरण, चंडीगढ़ हवाई अड्डे तथा इंडियन एयरलाइंस लिमिटेड, विशाखाट्टनम स्टेशन जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[सं. ई-11020/6/2006-हिन्दी]

चन्द्रभान नारनौली, निदेशक (राजभाषा)

MINISTRY OF CIVIL AVIATION

New Delhi, the 17th January, 2007

S.O. 222.—In pursuance of sub-rule (4) of rule 10 of the Official Language (use of official purposes of the Union) Rules 1976, the Central Government hereby notifies the following offices of the Chandigarh Airport of Airports Authority of India and Vishkapatnam Station of Indian Airlines the public sector undertaking of Ministry of Civil Aviation, whereof more than 80% staff have acquired the working knowledge of Hindi.

[No. E-11020/6/2006-Hindi]

C.B. NARNAULI, Director (OL)

पोत परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय

(पोत परिवहन विभाग)

(स्थापना-II अनुभाग)

नई दिल्ली, 5 जनवरी, 2007

का.आ. 223.—फाइल सं. एच-11020/2/2005-स्थापना के अन्तर्गत जारी किए गए दिनांक 11 अक्टूबर, 2005 के का.आ. सं. 1484 (अ) और फाइल सं. I-35019/3/2006-सूचना का अधिकार के अंतर्गत जारी किए गए दिनांक 19 अप्रैल, 2006 के उत्तरवर्ती का.आ. में आंशिक संशोधन करते हुए तथा सूचना का अधिकार-अधिनियम, 2005 (वर्ष 2005 के अधिनियम सं. 22) की धारा 5 की उप धारा (1) के अनुसरण में, पोत परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय, पोत परिवहन विभाग (मुख्यालय) निम्नलिखित अधिकारियों को एतद्वारा, नामोदिष्ट करता है :-

- (i) श्री दिनेश कुमार, जो कि सरकारी सेवा से अपना त्याग-पत्र सौंप चुके हैं, के स्थान पर श्री त्रिलोक सिंह नेगी, उप-सचिव (संसद), दूरभाष सं.-23710505, कमरा सं. 536, परिवहन भवन, नई दिल्ली-110001 को अंतर्देशीय जल परिवहन और पोत निर्माण तथा पोत मरम्मत सहित पोत परिवहन स्कंध से संबंधित सभी मामलों में केन्द्रीय लोक सूचना अधिकारी के रूप में, और
- (ii) श्री हेमन्त जैन, जिनका अब स्थानान्तरण हो गया है, के स्थान पर श्री संजय पाण्डेय, लेखा-नियंत्रक, दूरभाष सं. 23381410, आई डी ए बिल्डिंग, जामनगर हाउस, नई दिल्ली-110001 को पोत परिवहन विभाग के लेखा और बजट से संबंधित सभी मामलों में केन्द्रीय लोक सूचना अधिकारी के रूप में ।

[फा. सं. I-35019/3/2006-सूचना का अधिकार]

राजीव कुमार, उप-सचिव

MINISTRY OF SHIPPING, ROAD TRANSPORT AND HIGHWAYS

(Department of Shipping)

(ESTT-II. SECTION)

New Delhi, the 5th January, 2007

S.O. 223.—In partial modification of S.O. 1484(E) dated 11th October, 2005 issued under File No. H-11020/2/2005-Estt. and subsequent modification dated 19th April, 2006 issued under File No. I-35019/3/2006-RTI and in pursuance of Sub-section (1) of Section 5 of the Right to Information Act, 2005 (22 of 2005), Department of Shipping (Headquarters), Ministry of Shipping, Road Transport and Highways hereby designate :-

- (i) Shri T. S. Negi, Deputy Secretary (Parl) (Tel. No. 23710505) (Room No. 536), Transport Bhavan, New Delhi- 110 001 as Central Public Information Officer (CPIO) for all matters concerning Shipping Wing including Inland Water Transport (IWT) and Ship building and Ship repair in place of Shri Dinesh Kumar who has since tendered his resignation, and
- (ii) Shri Sanjay Pandey, Controller of Accounts (Tel. No. 23381410), IDA Building Jamnagar House, New Delhi-110 001 as Central Public Information Officer (CPIO) for all matters concerning Accounts and Budget of the Department of Shipping in place of Shri Hemant Jain who has since been transferred.

[F. No. I-35019/3/2006-RTI]

RAJEEV KUMAR, Dy. Secy.

नई दिल्ली, 5 जनवरी, 2007

का.आ. 224.—फाइल सं. एच-11020/2/2005-स्थापना के अन्तर्गत जारी किए गए दिनांक 30 सितम्बर, 2005 के का.आ. सं. 1443 (अ) में आंशिक संशोधन करते हुए तथा साधारण खंड अधिनियम, 1897 (वर्ष 1897 के अधिनियम सं. 10) की धारा 22 के साथ पठित सूचना का अधिकार-अधिनियम, 2005 (वर्ष 2005 के अधिनियम सं. 22) की धारा 19 की उप-धारा (1) के अनुसरण में, पोत परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय, पोत परिवहन विभाग (मुख्यालय), श्रीमती सुजाता प्रसाद, जिनका स्थानान्तरण हो गया है, के स्थान पर, श्री पी. सुधीर कुमार, मुख्य लेखा नियंत्रक, दूरभाष सं.-23387552, फैक्स नं. 011-23070975, आई डी ए बिल्डिंग, जामनगर हाउस को एतद्वारा, लेखा और बजट से संबंधित सभी मामलों में अपील प्राधिकारी के रूप में नामोदिष्ट करता है ।

[फा. सं. I-35019/3/2006-सूचना का अधिकार]

राजीव कुमार, उप-सचिव

New Delhi, the 5th January, 2007

S.O. 224.—In partial modification of S.O. 1443(E) dated 30th September, 2005 issued under File No. H-11020/2/2005-Estt. and in pursuance of Sub-section (1) of Section 19 of the Right to Information Act, 2005 (22 of 2005) read with Section 22 of the General Clauses Act 1897 (10 of 1897), the Department of Shipping (Headquarters), Ministry of Shipping, Road Transport and Highways hereby designate Shri P. Sudhir Kumar, Chief Controller of Accounts, Tel. No. 23387552, Fax No. 011-23070975, IDA Building, Jamnagar House as the Appellate Authority for all matters concerning Accounts and Budget of the Department of Shipping in place of Smt. Sujata Prasad who has since been transferred.

[F. No. I-35019/3/2006-RTI]

RAJEEV KUMAR, Dy. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 10 जनवरी, 2007

का.आ. 225.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1	आई एस 12021 : 1987 स्विचगियर और कंट्रोलगियर के लिए 1,000 वीएसी से अधिक नहीं वाल्टेज वाले कंट्रोल ट्रांस फार्मरों के लिए विनिर्देश	02, दिसम्बर 2006	31-12-2006

इस संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. ईटी 07/टी-33]

पी. के. मुखर्जी, वैज्ञानिक 'एफ' एवं प्रमुख (विद्युत् तकनीकी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 10th January, 2007

S.O. 225. — In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued:

SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. and year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1	IS 12021 : 1987 Specification for control Transformers for Switchgear and Controlgear for Voltage not exceeding 1 000 V ac	02, December 2006	31-12-2006

Copy of this Amendment is available with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai, and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. ET 07/T-33]

P.K. MUKHERJEE, Sc. 'F' & Head (Electrical Technical)

नई दिल्ली, 11 जनवरी, 2007

का.आ. 226.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1	आई एस 8783(भाग 3) : 1995 निज्जमन मोटरों के वाइंडिंग तार विशिष्ट भाग 3 परीक्षण पद्धतियाँ (पहला पुनरीक्षण)	02, दिसम्बर 2006	31-12-2006

इन भारतीय संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयंबटूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. ईटी 33/टी-57]

पी. के. मुखर्जी, वैज्ञानिक 'एफ' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 11th January, 2007

S.O. 226. — In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. and Year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1	IS 8783(Part 3): 1995 Winding Wires for Submersible motors— Specification Part 3 Methods of tests (First Revision)	2 December, 2006	31-12-2006

Copy of this Amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai, and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. ET 33/T-57]

P. K. MUKHERJEE, Sc. 'F' & Head (Electrotech.)

नई दिल्ली, 18 जनवरी, 2007

का. आ. 227.— भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 11764 : 2005/आई एस ओ 2911 : 2004 मीठा संधनित दूध सुक्रोज अंश ज्ञात करना पोलेरीमीटरी पद्धति (पहला पुनरीक्षण)	आई एस 11764 : 1986	30 नवम्बर, 2005
2.	आई एस 11888 : 2005/आई एस ओ 5739 : 2003 केसिन और केसिनेट जले कण और बाहरी पदार्थ का अंश ज्ञात करना (पहला पुनरीक्षण)	आई एस 11888 : 1987	30 नवम्बर, 2005
3.	आई एस 12758 : 2005/आई एस ओ 1735 : 2004 चीज और प्रसंस्कृत चीज उत्पाद-वसा अंश ज्ञात करना-भारात्मक पद्धति (संदर्भ पद्धति) (पहला पुनरीक्षण)	आई एस 12758 : 1989	30 नवम्बर, 2005

(1)	(2)	(3)	(4)
4.	आई एस 12757 : 2005/आई एस ओ 2963 : 1997 पनीर और प्रसंस्करित पनीर उत्पाद-सिट्रिक अम्ल अंश ज्ञात करना-एन्जाइमैटिक पद्धति (पहला पुनरीक्षण)	आई एस 12757 : 1989	31 दिसम्बर, 2005
5.	आई एस 11963 : 2005/आई एस ओ 5548 : 2004 केसिन और केसिनेट-लैक्टोज अंश ज्ञात करना-प्रकाशमिती (पहला पुनरीक्षण)	आई एस 11963 : 1987	30 नवम्बर, 2005
6.	आई एस 11763 : 2005/आई एस ओ 5943 : 2004 पनीर और प्रसंस्करित पनीर उत्पाद-कलोराइड अंश ज्ञात करना-विभवमापी अनुमापन पद्धति (दूसरा पुनरीक्षण)	आई एस 11763 : 1996	30 नवम्बर, 2005
7.	आई एस 11762 : 2005/आई एस ओ 1737 : 1999 वाष्पीकृत दूध और मीठा संधनित दूध-वसा अंश ज्ञात करना-भारात्मक पद्धति (पहला पुनरीक्षण)	आई एस 11762 : 1986	30 नवम्बर, 2005
8.	आई एस 11202 : 2005/आई एस ओ 8069 : 1986 शुष्क दूध-लैक्टिक अम्ल और लैक्टेट अम्ल अंश ज्ञात करना-एन्जाइमैटिक पद्धति (पहला पुनरीक्षण)	आई एस 11202 : 1984	30 नवम्बर, 2005
9.	आई एस 8963 : 2006 क्लोरपाइरीफॉस तकनीकी- विशिष्ट (पहला पुनरीक्षण)	आई एस 8963 : 1978	1 सितम्बर, 2006
10.	आई एस 15691 : 2006 बांस के कोमल टुकड़ों के भण्डारण एवं परिवहन के दिशानिर्देश		30 सितम्बर, 2006
11.	आई एस 15690 : 2006 शुष्क, नमक लगे बांस के कोमल टुकड़े-विशिष्ट		30 सितम्बर, 2006
12.	आई एस 15689 : 2006 नमक के घोल में बांस के कोमल टुकड़े-विशिष्ट		30 सितम्बर, 2006
13.	आई एस 15669 : 2006/आई एस ओ 10695 : 2000 पानी की गुणता-चयनित कार्बनिक नाइट्रोजन एवं फास्फोरस यौगिकों का निर्धारण-गैस क्रोमेटोग्राफीय विधि		30 जून, 2006
14.	आई एस 15670 : 2006/आई एस ओ 6468 : 1996 पानी की गुणता-कुछ आर्गेनोक्लोरीन कीटनाशकों, पॉलीक्लोरीनेटेड बाईफेनाइलों और क्लोरोबेन्जीनों का निर्धारण-द्रव-द्रव निष्कर्षण के उपरान्त गैस क्रोमेटोग्राफीय विधि		30 जून, 2006

(1)	(2)	(3)	(4)
15.	आई एस 15614 : 2006 मेथोमाईल, नकनीकी-विशिष्ट		28 फरवरी, 2006
16.	आई एस 15616 : 2006 अल्फासाइपरमेथरिन, तकनीकी-विशिष्ट		31 जनवरी, 2006
17.	आई एस 15693 : 2006 क्लोरपाइरीफास-मिथाइल, तकनीकी-विशिष्ट		31 अक्टूबर, 2006
18.	आई एस 15694 : 2006 पोटेशियम आयोडेट, खाद्य ग्रेड-विशिष्ट		31 अक्टूबर, 2006
19.	आई एस 8944 : 2005 क्लोरपाइरीफॉस, ई सी (पहला पुनरीक्षण)	आई एस 8944 : 1978	28 दिसम्बर, 2006
20.	आई एस 15692 : 2006 हेक्साकोनाजोल, निस्पंदित सान्द्र (एस सी)-विशिष्ट		31 अक्टूबर, 2006
21.	आई एस 8708 मेनकोजेब आर्द्रकरणीय पाउडर-विशिष्ट (पहला पुनरीक्षण)	आई एस 9708 : 1978	22 जनवरी, 2007
22.	आई एस 11721 : 2005/आई एस ओ 1136 : 2000 शुष्क दुग्ध और शुष्क दुग्ध उत्पाद-वसा अंश ज्ञात करना-भारतमक पद्धति (संदर्भ पद्धति) (पहला पुनरीक्षण)	आई एस 11721 : 1986	31 दिसम्बर, 2005

इन भारतीय मानक भारतीय मानकों की प्रतियां ब्यूरो, मानक भवन 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. एफएडी/जी-128]

श्रीमती मधुलिका प्रकाश, वैज्ञानिक 'एफ' एवं प्रमुख (खाद्य एवं कृषि)

New Delhi, the 18th January, 2007

S.O. 227. — In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. & Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 11764 : 2005/ISO 2911 : 2004 Sweetened condensed milk—Determination of sucrose content—Polarimetric method (First Revision)	IS 11764 : 1986	30 November, 2005
2.	IS 11888 : 2005/ISO 5739 : 2003 Casiens and caseinates—Determination of contents of scorched particles and of extraneous matter (First Revision)	IS 11888 : 1887	30 November, 2005

(1)	(2)	(3)	(4)
3.	IS 12758 : 2005/ISO 1735 : 2004 Cheese and processed cheese products— Determination of fat content—Gravimetric method (Reference Method) (First Revision)	IS 12758 : 1989	30 November, 2005
4.	IS 12757 : 2005/ISO 2963 : Cheese and processed cheese products—Determination of citric acid content—Enzymatic method (First Revision)	IS 12757 : 1989	31 December, 2005
5.	IS 11963 : 2005/ISO 5548 : 2004 Caseins and caseinates—Determination of lactose content—Photometric method (First Revision)	IS 11963 : 1987	30 November, 2005
6.	IS 11763 : 2005/ISO 5943 : 2004 Cheese and processed cheese products—Deter- mination of chloride content—Potentiometric titration method (Second Revision)	IS 11763 : 1996	30 November, 2005
7.	IS 11762 : 2005/ISO 1737 : 1999 Evaporated milk and sweetened condensed milk— Determination of fat content—Gravimetric method (Reference method) (First Revision)	IS 11762 : 1986	30 November, 2005
8.	IS 11202 : 2005/ISO 8069 : 1986 Dried milk—Determination of lactic acid and lactates content—Enzymatic method (First Revision)	IS 11202 : 1984	30 November, 2005
9.	IS 8963 : 2006 Chlorpyrifos, technical—Speci- fication (First Revision)	IS 8963 : 1978 Specification for chlorpyrifos, technical	1 September, 2006
10.	IS 15691 : 2006 Guidelines for storage and transportation of bamboo shoot		30 September, 2006
11.	IS 15690 : 2006 Dry salted bamboo shoot— Specification		30 September, 2006
12.	IS 15689 : 2006 bamboo shoot in brine— Specification		30 September, 2006
13.	IS 15669 : 2006/ISO 10695 : 2000 Water Quality— Determination of selected organic nitrogen and phosphorus compounds—Gas chromatographic method		30 June, 2006
14.	IS 15670 : 2006/ISO 6468 : 1996 Water quality— Determination of certain organochlorine insecticides, polychlorinated biphenyls and chlorobenzenes— Gas chromatographic method after liquid-liquid extraction		30 June, 2006
15.	IS 15614 : 2006 Methomyl, technical— Specification		28 February, 2006
16.	IS 15616 : 2006 Alphacypermethrin, technical— Specification		31 January, 2006
17.	IS 15693 : 2006 Chlorpyrifos-methyl, technical— Specification		31 October, 2006
18.	IS 15694 : 2006 Potassium iodate, food grade— Specification		31 October, 2006
19.	IS 8944 : 2005 Chlorpyrifos, EC (First Revision)	IS 8944 : 1978	28 December, 2006
20.	IS 15692 : 2006 Hexaconazole, suspension concentrate (SC)— Specification		31 October, 2006
21.	IS 8708 : 2006 Mancozeb wettable powder— Specification (First Revision)	IS 8708 : 1978	22 January, 2007

(1)	(2)	(3)	(4)
22.	IS 11721 : 2005/ISO 1736 : 2000 Dried milk and dried milk products—Determination of fat content—Gravimetric method (Reference Method) (First Revision)	11721 : 1986	31 December, 2005

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. FAD/G-128]

Mrs. MADHULIKA PRAKASH, Scientist F & Head (Food & Agri.)

नई दिल्ली, 18 जनवरी, 2007

का.आ. 228.— भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के संशोधन के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और वर्ष	संशोधन के वाछिसनप में आने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 4626 : 1978 डीहाइड्रेटेड आलूओं की विशिष्टि (पहला पुनरीक्षण)	संशोधन संख्या 3 वर्ष 2006	30 सितंबर, 2006
2.	आई एस 4627 : 1968 डीहाइड्रेटेड कैबेज की विशिष्टि (पहला पुनरीक्षण)	संशोधन संख्या 3 वर्ष 2006	30 सितंबर, 2006
3.	आई एस 13659 : 1993 इंटरएस्टीफाइड रिसिनोलीइक अम्ल के पॉलिग्लिसरील एस्टर, खाद्य ग्रेड—विशिष्टि	संशोधन संख्या 1 वर्ष 2006	30 अप्रैल, 2006
4.	आई एस 14125 : 1994 डीएल-टार्टरिक अम्ल, खाद्य ग्रेड—विशिष्टि	संशोधन संख्या 1 वर्ष 2006	30 अप्रैल, 2006
5.	आई एस 13704 : 1993 काष्ठरॉजिन (इस्टरगम) के ग्लिसरील, खाद्य ग्रेड—विशिष्टि	संशोधन संख्या 1 वर्ष 2006	30 अप्रैल, 2006
6.	आई एस 10502 : 1993 ग्वार गम, खाद्य ग्रेड—विशिष्टि (पहला पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2006	31 मार्च, 2006
7.	आई एस 9953 : 1981 ग्लिसरील मोनोस्टिरेट, खाद्य ग्रेड की विशिष्टि	संशोधन संख्या 1 वर्ष 2006	31 मार्च, 2006
8.	आई एस 1011 : 2002 बिस्कुट—विशिष्टि (चौथा पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2006	15 नवम्बर, 2006
9.	आई एस 15271 : 2003 नमकीन—विशिष्टि	संशोधन संख्या 1 वर्ष 2006	28 फरवरी, 2006
10.	आई एस 2557 : 1994 खाद्य उत्पादों के लिये अन्नाटो रंग—विशिष्टि (पहला पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2006	15 मार्च, 2006
11.	आई एस 5343 : 1996 ब्यूटिलेटेड हाईड्रॉक्सी-एनीसोल, खाद्य ग्रेड—विशिष्टि (पहला पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2005	15 दिसंबर, 2006
12.	आई एस 6793 : 1996 फुमैरिक अम्ल, खाद्य ग्रेड—विशिष्टि (पहला पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2005	1 जुलाई, 2005
13.	आई एस 13658 : 1993 वसा अम्ल के पॉलि-ग्लिसरील ईस्टर, खाद्य ग्रेड—विशिष्टि	संशोधन संख्या 1 वर्ष 2006	28 फरवरी, 2006

(1)	(2)	(3)	(4)
14.	आई एस 13702 : 1993 प्रोपाइलीन ग्लाइकोल, खाद्य ग्रेड—विशिष्ट	संशोधन संख्या 1 वर्ष 2006	28 फरवरी, 2006
15.	आई एस 13186 : 1991 सिटिक अम्ल, खाद्य ग्रेड—विशिष्ट	संशोधन संख्या 1 वर्ष 2006	28 फरवरी, 2006
16.	आई एस 7908 : 1997 सल्फर डाइऑक्साइड, खाद्य ग्रेड—विशिष्ट (पहला पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2006	28 फरवरी, 2006
17.	आई एस 5055 : 1996 लेसिथीन, खाद्य ग्रेड—विशिष्ट (पहला पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2006	28 फरवरी, 2006
18.	आई एस 6794 : 1997 डोडिसिल गैलेट, खाद्य ग्रेड—विशिष्ट (पहला पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2006	28 फरवरी, 2006
19.	आई एस 6796 : 1997 प्रोपाइल गैलेट, खाद्य ग्रेड—विशिष्ट (पहला पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2006	28 फरवरी, 2006
20.	आई एस 6798 : 1997 आक्टिल गैलेट, खाद्य ग्रेड—विशिष्ट (पहला पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2006	28 फरवरी, 2006
21.	आई एस 7237 : 1997 कारोब बीन गम, खाद्य ग्रेड—विशिष्ट (पहला पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2006	28 फरवरी, 2006
22.	आई एस 7238 : 1997 टेगाकेन्थ गम, खाद्य ग्रेड—विशिष्ट (पहला पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2006	28 फरवरी, 2006
23.	आई एस 13428 : 2005 पैकेजबन्ध प्राकृतिक मिनरल जल—विशिष्ट (दूसरा पुनरीक्षण)	संशोधन संख्या 2 वर्ष 2006	7 दिसम्बर, 2006
24.	आई एस 12786 : 1989 सिंचाई उपस्कर-सिंचाई पार्श्वों के लिए पालीएथिलीन पाईप विशिष्ट	संशोधन संख्या 5 वर्ष 2006	1, अप्रैल, 2007
25.	आई एस 1164 : 1986 कोकोआ पाउडर की विशिष्ट (तीसरा पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2006	16 अगस्त, 2006
26.	आई एस 253 : 1985 खाने योग्य साधारण नमक की विशिष्ट (तीसरा पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2006	30 सितंबर, 2006
27.	आई एस 5343 : 1996 बूटाईलेटेड हाईडॉक्सी-एनीसोल, खाद्य ग्रेड—विशिष्ट (पहला पुनरीक्षण)	संशोधन संख्या 1 वर्ष 2006	15 दिसंबर, 2006

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. एफएडी/जी-128]

श्रीमती मधुलिका प्रकाश, वैज्ञानिक 'एफ' एवं प्रमुख (खाद्य एवं कृषि)

New Delhi, the 18th January, 2007

S.O. 228.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each:

SCHEDULE

SI No.	No. & Year of the Indian Standards	No. & Year of Amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 4626:1978 Specification for dehydrated potatoes (First Revision)	Amendment No. 3 Year 2006	30 September, 2006
2.	IS 4627:1968 Specification for dehydrated cabbage	Amendment No. 2 Year 2006	30 September, 2006

(1)	(2)	(3)	(4)
3.	IS 13659: 1993 Polyglycerol esters of interesterified ricinoleic acid, food grade - Specification	Amendment No.1 Year 2006	30 April, 2006
4.	IS 14125:1994 DL-Tartaric acid, food grade - Specification	Amendment No.1 Year 2006	30 April, 2006
5.	IS 13704: 1993 Glycerol esters of wood rosin (ester gums), food grade - Specification	Amendment No.1 Year 2006	30 April, 2006
6.	IS 10502:1993 Guar gum, food grade-Specification (First Revision)	Amendment No.1 Year 2006	31 March, 2006
7.	IS 9953:1981 Specification for glyceryl monostearate, food grade	Amendment No.1 Year 2006	31 March, 2006
8.	IS 1011 :2002 Biscuits - Specification (Fourth Revision)	Amendment No.1 Year 2006	15 November, 2006
9.	IS 15271:2003 Namkeen - Specification	Amendment No.1 Year 2006	28 February, 2006
10.	IS 2557:1994 Annatto colour for food products - Specification (First Revision)	Amendment No.1 Year 2006	15 March, 2006
11.	IS 5343:1996 Butylated hydroxyanisole, food grade - Specification	Amendment No.1 Year 2005	15 December, 2006
12.	IS 6793:1996 Fumaric acid, food grade-Specification (First Revision)	Amendment No. 1 Year 2005	1 July, 2005
13.	IS 13658: 1993 Polyglycerol esters of fatty acids, food grade - Specification	Amendment No. 1 Year 2006	28 February, 2006
14.	IS 13702: 1993 Propylene glycol, food grade - Specification	Amendment No. Year 2006	28 February, 2006
15.	IS 13186: 1991 Citric acid, food grade - Specification	Amendment No. 1 Year 2006	28 February, 2006
16.	IS 7908: 1997 Sulphur dioxide, food grade - Specification (First Revision)	Amendment No. 1 Year 2006	28 February, 2006
17.	IS 5055:1996 Lecithin, food grade-Specification (First Revision)	Amendment No. 1 Year 2006	28 February, 2006
18.	IS 6794:1997 Dodecyl gallate, food grade-Specification (First Revision)	Amendment No. 1 Year 2006	28 February, 2006
19.	IS 6796: 1997 Propyl gallate, food grade - Specification (First Revision)	Amendment No. 1 Year 2006	28 February, 2006
20.	IS 6798: 1997 Octyl gallate, food grade - Specification (First Revision)	Amendment No. 1 Year 2006	28 February, 2006
21.	IS 7237:1997 Carob bean gum, food grade-Specification (First Revision)	Amendment No. 1 Year 2006	28 February, 2006
22.	IS 7238:1997 Tragacanth gum, food grade-Specification (First Revision)	Amendment No. 1 Year 2006	28 February, 2006
23.	IS 13428:2005 Packaged natural mineral water - Specification (Second Revision)	Amendment No. 2 Year 2006	7 December, 2006
24.	IS 12786:1989 Irrigation equipments - Polyethylene pipes for irrigation laterals - Specification	Amendment No. 5 Year 2006	1 April, 2007

(1)	(2)	(3)	(4)
25.	IS 1164: 1986 Specification for cocoa powder (Third Revision)	Amendment No.1 Year 2006	16 August, 2006
26.	IS 253: 1985 Specification for edible common salt (Third Revision)	Amendment No.1 Year 2006	30 September, 2006
27.	IS 5343: 1996 Butylated hydroxyanisole, food grade - Specification (First Revision)	Amendment No. 1 Year 2006	15 December, 2006

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[No. FAD/G-128]

Mrs. MADHULIKA PRAKASH, Scientist F & Head (Food & Agri.)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 19 जनवरी, 2007

का. आ. 229.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि तमिलनाडु राज्य में रमनाड जी.सी.एस. से रिजेन्सी पॉवर प्लान्ट पाइपलाईन परियोजना तक प्राकृतिक गैस के परिवहन के लिए गेल (इण्डिया) लिमिटेड द्वारा, एक पाइपलाईन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाईन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाईन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाईन बिछाए जाने के संबंध में, श्री एन. सन्थनाकृष्णन, सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, काँवेरी बेसिन, नागापट्टिनम् (तमिलनाडु) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला	तहसील	गाँव	सर्वे नं.	आर.ओ.यू. अर्जित करने के लिए क्षेत्रफल (हेक्टेयर में)
1	2	3	4	5
रमनाड	रमनाड	53-वलन्थरवई	94-3	0.02.0
			94-4ए	0.02.0
			94-5ए	0.07.0
			95-4ए	0.12.0
			95-5ए	0.11.0
			95-5बी	0.04.0
			95-6ए	0.04.5
			95-6बी	0.04.5
			95-6सी	0.01.0
			92-1	0.02.0 जी.पी.
			92-2	0.09.0
			92-5ए	0.06.5

1	2	3	4	5
रमनाड	रमनाड	53-वलन्थरवई	92-5बी	0.06.0
			92-9ए	0.02.0
			92-10	0.11.0
			92-3	0.02.0
			90-4बी	0.15.5
			90-6	0.04.0
			90-5	0.09.0
			89-2	0.10.0
			89-3 पी.टी.	0.10.0
			89-5	0.05.0
			89-6सी	0.02.0
			87-1बी	0.02.0
			87-2	0.10.5
			65-1बी1ए	0.01.0
			65-1बी1सी	0.03.5
			65-1बी2बी	0.04.0
			65-1बी2सी	0.03.0
			65-2सी	0.02.0
			68-2	0.09.0
			68-3	0.10.5
			69-4	0.23.0
			76-7	0.05.5
			76-8ए	0.08.0
			76-8ए2	0.07.0
			76-8बी	0.02.0
			76-9	0.02.5 जी.पी.
			75-1	0.14.0
			75-2	0.08.0
			74-2बी	0.02.0
			74-2सी	0.04.0
			74-2ई	0.07.0
			74-3ए	0.07.0
			74-3बी1	0.01.0
			74-3बी2	0.04.0
			74-4बी	0.02.0
			74-5	0.08.0
			77-1	0.02.0 जी.पी.
			77-2ए	0.01.0
			77-3ए	0.02.5
			77-4ए	0.04.5
			77-5ए	0.04.0
			78-2ए	0.15.0
			78-2बी	0.17.5
			78-2सी	0.13.0
			योग	3.52.0

1	2	3	4	5
रमनाड	रमनाड	52-कुसावनकुडी	110-1ए	0.25.0
			109	0.09.0 जी.पी.
			108-3ए	0.17.0
			108-3बी	0.02.5
			108-3सी	0.05.0
			108-3डी	0.05.0
			108-5	0.16.5
			94	0.38.0 जी.पी.
			93-3बी 2	0.01.0
			93-2बी	0.00.5
			93-2सी 1	0.02.5
			93-2सी 2	0.02.5
			30	0.09.0
			29-1बी	0.04.5
			29-1सी 2	0.02.0
			29-2बी 1	0.00.5
			36-4	0.08.0
			36-5	0.04.0
			37-10	0.20.5
			26-1	0.18.5
			26-5	0.39.0
			25-1 ए	0.12.0
			25-3 ए 1	0.08.0
			25-3 ए 2	0.09.0
			25-3 बी 1	0.02.0
			16-1 ए	0.04.0
			16-1बी	0.05.5
			16-1 सी	0.06.5
			16-1 डी	0.06.0
			15-1 डी	0.03.0
			40-1	0.10.0
			40-3	0.11.5
			46-1 ए	0.16.0
			46-2 बी	0.11.0
			41-1ए 2	0.06.0
			41-1ए 1	0.06.0
			41-1बी 1	0.06.0
			41-1बी 2	0.02.0
			44-4बी.	0.11.0
			44-1	0.02.0 जी.पी.
			44-3बी 1	0.19.0
			51-2	0.12.0
			51-3 बी	0.13.5
			51-6	0.18.0
			51-3 सी	0.02.0
			52-3	0.02.0
			योग	4.34.5

1	2	3	4	5
रमनाड	रमनाड	18-कालुहुरानी		
			196-1ए	0.01.0
			196-1बी	0.11.5
			196-2 सी	0.11.0
			194-2 सी	0.08.0
			194-5	0.04.0
			194-6ए	0.11.5
			194-6बी	0.03.5
			201-बी	0.13.0
			201-1सी 1	0.08.5
			201-1सी 2	0.02.0
			201-5ए 2	0.03.5
			201-7	0.06.5
			193-7	0.03.5
			193-11	0.13.5
			193-8	0.05.0
			193-9	0.05.0
			202-2 ए	0.35.0
			202-2 बी	0.07.5
			203-1	0.02.0 जी.पी.
			203-2	0.03.5
			203-3 ए	0.13.0
			203-4	0.19.0
			204-1	0.06.0
			204-2ए	0.06.0
			204-2 बी	0.05.0
			204-3	0.10.5
			204-4	0.02.0
			204-5	0.06.5
			योग	2.27.0

[फा. सं. एल-14014/17/05-जी.पी.]

एस. बी. मण्डल, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi the 19th January, 2007

S.O. 229.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas through Ramnad GCS to Regency Power Plant pipeline project in the State of Tamilnadu, a pipeline should be laid by the GAIL (India) Limited;

And, whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India

are made available to the general public, object in writing to the laying of the pipeline under the land to Shri N. Santhanakrishnan, Competent Authority, GAIL (India) Limited, Cauvery Basin, Nagapattinam (Tamilnadu).

SCHEDULE

Distt.	Tehsil	Village	Survey No.	Area to be Acquired for R. O. U. (in Hectares)
1	2	3	4	5
Ramnad	Ramnad	53-Valantharavai	94-3	0.02.0
			94-4A1	0.02.0
			94-5A	0.07.0
			95-4A	0.12.0
			95-5A	0.11.0
			95-5B	0.04.0
			95-6A	0.04.5
			95-6B	0.04.5
			95-6C	0.01.0
			92-1	0.02.0 G.P.
			92-2	0.09.0
			92-5A	0.06.5
			92-5B	0.06.0
			92-9A	0.02.0
			92-10	0.11.0
			92-3	0.02.0
			90-4B	0.15.5
			90-6	0.04.0
			90-5	0.09.0
			89-2	0.10.0
			89-3PT	0.10.0
			89-5	0.05.0
			89-6C	0.02.0
			87-1B	0.02.0
			87-2	0.10.5
			65-1B1A	0.01.0
			65-1B1C	0.03.5
			65-1B2B	0.04.0
			65-1B2C	0.03.0
			65-2C	0.02.0
			68-2	0.09.0
			68-3	0.10.5
			69-4	0.23.0
			76-7	0.05.5
			76-8A1	0.08.0
			76-8A2	0.07.0
			76-8B	0.02.0
			76-9	0.02.5 G.P.
			75-1	0.14.0
			75-2	0.08.0

1	2	3	4	5
Ramnad	Ramnad	53-Valantharavai	74-2B	0.02.0
			74-2C	0.04.0
			74-2E	0.07.0
			74-3A	0.07.0
			74-3B1	0.01.0
			74-3B2	0.04.0
			74-4B	0.02.0
			74-5	0.08.0
			77-1	0.02.0 G.P.
			77-2A	0.01.0
			77-3A1	0.02.5
			77-4A1	0.04.5
			77-5A	0.04.0
			78-2A	0.15.0
			78-2B	0.17.5
			78-2C	0.13.0
			TOTAL	3.52.0
		52-Kusavankudy	110-1B	0.25.0
			109	0.09.0 G.P.
			108-3A	0.17.0
			108-3B	0.02.5
			108-3C	0.05.0
			108-3D	0.05.0
			108-5	0.16.5
			94	0.38.0 G.P.
			93-3B2	0.01.0
			93-2B	0.00.5
			93-2C1	0.02.5
			93-2C2	0.02.5
			30	0.09.0
			29-1B	0.04.5
			29-1C2	0.02.0
			29-2B1	0.00.5
			36-4	0.08.0
			36-5	0.04.0
			37-10	0.20.5
			26-1	0.18.5
			26-5	0.39.0
			25-1A	0.12.0
			25-3A1	0.08.0
			25-3A2	0.09.0
			25-3B1	0.02.0
			16-1A	0.04.0
			16-1B	0.05.5
			16-1C	0.06.5
			16-1D	0.06.0
			15-1D	0.03.0
			40-1	0.10.0

1	2	3	4	5
Ramnad	Ramnad	52-Kusavankudy	40-3	0.11.5
			46-1A	0.16.0
			46-2B	0.11.0
			41-1A2	0.06.0
			41-1A1	0.06.0
			41-1B1	0.06.0
			41-1B2	0.02.0
			44-4B	0.11.0
			44-1	0.02.0 G.P.
			44-3B1	0.19.0
			51-2	0.12.0
			51-3B	0.13.5
			51-6	0.18.0
			51-3C	0.02.0
			52-3	0.02.0
			TOTAL	4.34.5
		18-Kaluhoorani	196-1A	0.01.0
			196-1B	0.11.5
			196-2C	0.11.0
			194-2C	0.08.0
			194-5	0.04.0
			194-6A	0.11.5
			194-6B	0.03.5
			201-1B	0.13.0
			201-1C1	0.08.5
			201-1C2	0.02.0
			201-5A2	0.03.5
			201-7	0.06.5
			193-7	0.03.5
			193-11	0.13.5
			193-8	0.05.0
			193-9	0.05.0
			202-2A	0.35.0
			202-2B	0.07.5
			203-1	0.02.0 G.P.
			203-2	0.03.5
			203-3A	0.13.0
			203-4	0.19.0
			204-1	0.06.0
			204-2A	0.06.0
			204-2B	0.05.0
			204-3	0.10.5
			204-4	0.02.0
			204-5	0.06.5
			TOTAL	2.27.0

[F. No. L-14014/17/05-G.P.]

S. B. MANDAL, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 28 दिसम्बर, 2006

का.आ. 230.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओ.एन.जी.सी. लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए-74/05 से 90/05) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-12-2006 को प्राप्त हुआ था।

[सं. एल-30025/18/2006-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 28th December, 2006

S.O. 230.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGITA-74/05 to 90/05) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ONGC Ltd. and their workman, which was received by the Central Government on 28-12-2006.

[No. L-30025/18/2006-IR (M)]

N. S. BORA, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT AHMEDABAD****PRESENT: Shri A. A. LAD, Presiding Officer****(Complaint C.G.I.T.A.) No. 74/05**

Bhangi Kanubhai H.
B/h Kalpinagar,
Nr. Radhanpura Road,
Cross Road,
Radhanpura Road,
Dist. Mehsana

Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

Opponent

APPEARANCE

Complainant : Shri R. Chidambaram

Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Dispute Act stating that,

though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 7. Meanwhile the complainant approach with purshis Ex. 8 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed of in view of purshis Ex. 8 for want of prosecution. No order as to cost.

Date : 4-12-06

Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT AHMEDABAD****PRESENT: SHRI A. A. LAD, Presiding Officer****(Complaint C.G.I.T.A.) No. 75/05**

Bhangi Kanubhai R.
Railway Masjid
Bhahngi Kacha Chhapra
Mehsana

Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

Opponent

APPEARANCE

Complainant : Shri R. Chidambaram

Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Dispute Act stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 6. Meanwhile the complainant approach with purshis Ex. 7 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed off in view of purshis Ex. 7 for want of prosecution. No order as to cost.

Date : 4-12-06
Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT : Shri A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 76/05

Bhangi Ashokbhai N.
At: Shankerpara
13, Pangath Society
Nr. Dudnsagar Diary
Dist: Mehsana

Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

Opponent

APPEARANCE

Complainant : Shri R. Chidambaram
Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Dispute Act stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 6. Meanwhile the complainant approach with purshis Ex. 7 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed off in view of purshis Ex. 7 for want of prosecution. No order as to cost.

Date : 4-12-06
Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT : SHRI A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 77/05

Bhangi Dipakkumar K.
Village Kheda
Tal: Visnagar
Dist : Mehsana

Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

Opponent

APPEARANCE

Complainant : Shri R. Chidambaram
Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Dispute Act stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 6. Meanwhile the complainant approach with purshis Ex. 7 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed off in view of purshis Ex. 7 for want of prosecution. No order as to cost.

Date : 4-12-06
Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT : SHRI A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 78/05

Bhangi Ganeshbhai K.
71, Shalimar Society
Sovasan Road,
Dist : Mehsana

Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

...Opponent

APPEARANCE

Complainant : Shri R. Chidambaram

Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Dispute Act stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 7. Meanwhile the complainant approach with purshis Ex. 8 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed of in view of purshis Ex. 8 for want of prosecution. No order as to cost.

Date : 4-12-2006
Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT : SHRI A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 79/05

Bhangi Hargovanbhai M.
Village : Dhinoj
Nr. Khodiyar Temple, Bhangivas
Ta. Chansma
Distt : Patan

...Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

...Opponent

APPEARANCE

Complainant : Shri R. Chidambaram

Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Dispute Act stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 7. Meanwhile the complainant approach with purshis Ex. 8 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed off in view of purshis Ex. 8 for want of prosecution. No order as to cost.

Date : 4-12-2006
Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT : SHRI A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 80/05

Bhangi Kiranbhai H.
Village : Kalapinagar Society,
Mehsana-Radhanpura Road,
Distt : Mehsana

Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

Opponent

APPEARANCE

Complainant : Shri R. Chidambaram

Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Dispute Act stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 7. Meanwhile the complainant approach with purshis Ex. 8 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed of in view of purshis Ex. 8 for want of prosecution. No order as to cost.

Date : 4-12-2006

Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT ATAHMEDABAD**

PRESENT : SHRI A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 81/05

Bhangi Kiratbhai K.

At : Bhangivas

Village : Panchot

Distt : Mehsana

... Complainant

V/s.

The Group General Manager,

O.N.G.C. Ltd.,

KDM Bhavan, Palavasna,

Mehsana.

... Opponent

APPEARANCE :

Complainant : Shri R. Chidambaram

Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Dispute Act stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 7. Meanwhile the complainant approach with purshis Ex. 8 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed of in view of purshis Ex. 8 for want of prosecution. No order as to cost.

Date : 4-12-2006

Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
ATAHMEDABAD**

PRESENT SHRI A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 82/05

Bhangi (Mukesh) bhai C.

71, Rushinagar Society

Nr. Indiranagar

Dist : Mehsana

... Complainant

V/s.

The Group General Manager,

O.N.G.C. Ltd.,

KDM Bhavan, Palavasna,

Mehsana.

... Opponent

APPEARANCE

Complainant : Shri R. Chidambaram

Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Dispute Act stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 7. Meanwhile the complainant approach with purshis Ex. 8 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed of in view of purshis Ex. 8 for want of prosecution. No order as to cost.

Date : 5-12-2006

Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT OF
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT AT AHMEDABAD**

PRESENT SHRI A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 83/05

Bhangi Rajeshbhai C.

32, Suncity Bungalow

Visanagar Ring Road,

Distt. Mehsana

... Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

Opponent

APPEARANCE

Complainant : Shri R. Chidambaram
Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Disputes Act stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 7. Meanwhile the complainant approach with purshis Ex. 8 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed of in view of purshis Ex. 8 for want of prosecution. No. order as to cost.

Date : 4-12-06
Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT AT AHMEDABAD

PRESENT : Shri A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 84/05

Bhangi Rameshbhai K.
351, Railway Colony
Opp. Mal Godown
Dist. Mehsana

Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

Opponent

APPEARANCE

Complainant : Shri R. Chidambaram
Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Disputes Act stating that,

though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 7. Meanwhile the complainant approach with purshis Ex. 8 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed of in view of purshis Ex. 8 for want of prosecution. No order as to cost.

Date : 5-12-06
Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT : Shri A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 85/05

Bhangi Sureshbhai C.
At : Bhangivas Village Dhinoj
Nr. Kodyar Mat's Temple
Tal : Chansma
Dist : Patna

Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

Opponent

APPEARANCE

Complainant : Shri R. Chidambaram
Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Disputes Act stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 7. Meanwhile the complainant approach with purshis Ex. 8 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed of in view of purshis Ex. 8 for want of prosecution. No order as to cost.

Date : 5-12-06

Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT : Shri A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 86/05

Bhangi Dineshbhai P.,
At : Bhangivas Village Dhinoj
Nr. Kodyar Mat's Temple
Tal : Chansma
Dist : Patna

Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

Opponent

APPEARANCE

Complainant : Shri R. Chidambaram

Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Disputes Act stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the oppnent by filing reply at Ex. 7. Meanwhile the complainant approach with purshis Ex. 8 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed of in view of purshis Ex. 8 for want of prosecution. No order as to cost.

Date : 4-12-06

Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT ATAHMEDABAD

PRESENT : SHRI A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 87/05

Bhangi Ganpatbhai B.
351/A, Railway Colony
Opp. Mal Godown
Dist. Mehsana

Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

Opponent

APPEARANCE

Complainant : Shri R. Chidambaram

Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Disputes Act stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 7. Meanwhile the complainant approach with purshis Ex. 8 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed of in view of purshis Ex. 8 for want of prosecution. No order as to cost.

Date : 6-12-06

Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT ATAHMEDABAD

PRESENT : Shri A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 88/05

Bhangi Vasudev K.
At : Matrima Temple
Bhangivas Jagudan
Dist. Mehsana

Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

Opponent

APPEARANCE

Complainant : Shri R. Chidambaram

Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Disputes Act stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 7. Meanwhile the complainant approach with purshis Ex. 8 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed of in view of purshis Ex. 8 for want of prosecution. No order as to cost.

Date : 6-12-06

Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT : Shri A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 89/05

Bhangi Nanjibhai S.
Ma. Katosan, Dhanpura,
At : Bhangivas
Dist. Mehsana

Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

Opponent

APPEARANCE

Complainant : Shri R. Chidambaram

Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Disputes Act stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing

this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 7. Meanwhile the complainant approach with purshis Ex. 8 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed of in view of purshis Ex. 8 for want of prosecution. No order as to cost.

Date : 6-12-06

Ahmedabad

A. A. LAD, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT : Shri A. A. LAD, Presiding Officer

(Complaint C.G.I.T.A.) No. 90/05

Bhangi Navinbhai C.
13, Servent Quarters,
Civil Hospital
Dist. Mehsana

Complainant

V/s.

The Group General Manager,
O.N.G.C. Ltd.,
KDM Bhavan, Palavasna,
Mehsana.

Opponent

APPEARANCE

Complainant : Shri R. Chidambaram

Opponent : Shri K. V. Gadhia, Shri Mahendra Patel

ORDER

1. The complainant has filed this complaint under Section 33A of the Industrial Disputes Act Stating that, though reference 226/2004 was pending before this Tribunal, he was prevented by the first party to report on duty. Besides dues were not paid for no reasons. Filing this complaint he prayed to order opponent to pay Rs. 25,000 as a cost with 4 months wages.

2. This was disputed by the opponent by filing reply at Ex. 7. Meanwhile the complainant approach with purshis Ex. 8 requesting to permit him to withdraw the complaint.

3. Rozanama reveals that complaint was pending for order. So I pass the following order :

ORDER

Complaint is disposed of in view of purshis Ex. 8 for want of prosecution. No order as to cost.

Date : 6-12-06

Ahmedabad

A. A. LAD, Presiding Officer

नई दिल्ली, 28 दिसम्बर, 2006

का.आ. 231.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई ओ पी आर के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय II, चंडीगढ़ के पंचाट (संदर्भ संख्या आईडी सं.-1028/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-12-06 को प्राप्त हुआ था।

[सं. एल-30011/66/2002-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 28th December, 2006

S.O. 231.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. ID No. 1028/2005) of the Central Government Industrial Tribunal/Labour Court II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of IOPR and their workman, which was received by the Central Government on 28-12-2006.

[No. L-30011/66/2002-IR (M)]

N. S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case No. I.D. No. 1028/2k5.

Registered on 17-09-2005

Date of Decision 8-12-2006.

The General Secretary, IOPR Employees Union C/o Panipat Refinery, Baholi

Petitioner

Versus

The Executive Director, IOPR, Panipat (Haryana)

Respondent

APPEARANCE

For the Workman : Mr. Karan Singh.

For the Management : Mr. Rakesh Kaushal.

AWARD

The parties are not present. The workmen have not appeared in this case on any date after the case was received by this Tribunal except on 19th Sep., 2006. The workmen appeared on that day through their Counsel, who did not file his letter of authority even. For that day special notice was issued to the workman under R/C Postal Receipt No. 379 dated 19th July, 2006. Thus they had the notice that the case was being fixed for 19th October, 2006 and thereafter for today, but they have chosen not to appear. They have not produced any evidence to support their claim not even the affidavit of any of the workmen. The

claim made, therefore, is not supported by any evidence and the workmen have withdrawn from prosecution by their conduct. There is, therefore, no evidence to answer the reference made by the Govt. of India vide their order no. L-30011/66/2002-IR (M) dated 31st Jan., 2003 that the action of the Management of IOPR, Panipat in deducting four days salary from the salary of all workers of Panipat Refinery during April 2001, for alleged illegal strike on 27th and 28th April, 2001 as per provisions to the Section 9(2) of the Payment of Wages Act, 1936, was illegal and unjustified. Since the workmen have failed to prove their claim therefore, they are not entitled to any relief. Their claim is rejected and the award is passed against them in these terms. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 28 दिसम्बर, 2006

का.आ. 232.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैं. एस.जी. एस. इंडिया प्राइवेट लिमिटेड के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटी ए सं.-22/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-12-06 को प्राप्त हुआ था।

[सं. एल-37012/3/90-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 28th December, 2006

S.O. 232.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGITA No. 22/04) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. S.G.S. India Pvt. Ltd. and their workmen, which was received by the Central Government on 28-12-2006.

[No. L-37012/3/90-IR (M)]

N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT : Shri A. A. LAD, Presiding Officer

Industrial Dispute (Reference C.G.I.T. A.) No. 22/04.

(Old I.T.C. 13/94)

M/s. S.G.S. India Pvt. Ltd.,
BZ-M-29, Gandhidam
Kutch

... First Party

V/s.

General Secretary,
Transport & Dock Workers, Union (HMS)
26-Mewawala Market,
New Kandla-Kutch

...Second Party

APPEARANCE

First Party : Kum. Meena Shah.
Second Party : Shri K.V. Vyas.

AWARD

1. Desk Officer Central Government, Ministry of Labour & Employment No. 37012/3/90-IR (M) dated 12/07/94 by exercising of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, said reference here for adjudication by sending schedule as under :

SCHEDULE

Whether the action of the management of M/s. S.G.S. India Pvt. Ltd., terminating the service of Shri K.R. Joshi, Inspector justified? If not, to what relief the workman is entitled?

2. In support that second party filed statement of claim by Ex. 7, which was replied by first party by filing written statement by Ex. 13.

3. Meanwhile both parties arrived to settlement and by purshis by Ex. 58 they prayer to take this reference on board and decide.

Accordingly, today reference is taken on board. Second party by his purshis Ex. 61 presented in person with Advocate prayed to disposed off the reference. Even Advocate of the first party Kum. Meena Shah also consented to the said proposal of the second party. Hence I hereby pass the following order :

ORDER

In view Ex. 61 and Annexure A of Ex. 60 the reference is disposed off: No order as to cost.

A.A. LAD, Presiding Officer

Date : 04-12-06

Ahmedabad

नई दिल्ली, 28 दिसम्बर, 2006

का.आ. 233.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसूर मिनरल लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलौर के पंचाट (संदर्भ संख्या 02/04, 9/04 और 10/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-12-06 को प्राप्त हुआ था।

[सं. एल-29012/35/2003-आई आर (एम);

[सं. एल-29012/46/2003-आई आर (एम);

[सं. एल-29012/47/2003-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 28th December, 2006

S.O. 233.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/04, 9/04 & 10/04) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mysore Minerals Limited and their workman, which was received by the Central Government on 28-12-2006.

[No. L-29012/35/2003-IR (M);

[No. L-29012/46/2003-IR (M);

[No. L-29012/47/2003-IR (M)]

N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 5th December, 2006

PRESENT : Shri A. R. SIDDIQUI, Presiding Officer
C.R. No. 02/2004

I Party

Shri Erachikkaiaha,
S/o Nanjappa,
Kenkere Post, Gandasi Hobli,
Arasikere Taluk
Hassan
Karnataka State

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M.G. Road,
Bangalore-560001

C.R. No. 09/2004

I Party

Shri Devappa Huchappa,
S/o Huchappa,
Kadkol Village & Post
Sirahatti Taluk,
Gadag
Karnataka State

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M.G. Road,
Bangalore-560001

C.R. No. 10/2004

I Party

Smt. Lakshmayya
Mahadevappa,
W/o Mahadevappa, Esrekar
Sulekatte Vill & Post
Kalaghatgi Taluk.
Dharwad (Dt)
Karnataka State

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M.G. Road,
Bangalore-560001

COMMAN AWARD

1. The Central Government by exercising the power conferred by clause (d) of sub-section (2A) of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-29012/35/2003-IR(M) dated 11th December, 2003, No. L-29012/46/2003-IR(M) dated 5th February, 2004 & No. L-29012/47/2003-IR(M) dated 5th February, 2004 for adjudication on the following schedule:

SCHEDULE (CR 02/2004)

"Whether the action of the management Mysore Minerals Ltd in terminating/premature superannuation

from the services of Shri Erachikkaiah w.e.f. 28-2-2001 is justified? If not to what relief the concerned workman is entitled?"

SCHEDULE (CR 09/2004)

"Whether the management Mysore Minerals Ltd. is justified in terminating the services/prematurely superannuating the services of Shri Devappa Huchappa w.e.f. 31-7-2001? If not to what relief the workman is entitled?"

SCHEDULE (CR 10/2004)

"Whether the management of Mysore Minerals Ltd. is justified in terminating the services/prematurely superannuating the services of Smt. Lakshmayya Mahadevappa w.e.f. 31-3-2001? If not to what relief the workman is entitled?"

2. All these cases are taken up together for disposal involving common facts and question of law.

3. From the pleadings, oral and documentary evidence of the parties, the facts undisputed emerged are that Shri Erachikkaiah, the first party workman in CR No. 2/04 joined the services of the management on 1-7-1986 furnishing his date of birth as 1-7-1960 as per the horoscope maintained by his parents and the membership application form maintained by the management shows the service particulars of the first party along with his name, date of birth and the date on which he joined the services showing his age as 26 years as on 1-7-1986. The same date of birth has been entered in all statutory records like EPF & 'B' Register. Therefore, he is entitled to continue in service up to 30-6-2018 upon reaching the age of superannuation i.e. 58 years of age. However, on 28-2-2001 after the expiry of working hours the official of the management asked him to stop work removing his name from the muster roll on the ground that he reached superannuation age of 58 years as per the so-called illegal medical examination wherein, the medical examiner has mentioned that by appearance of the first party he appeared to be of 55 years of age as on 20-2-1998. Thereafter the management issued letter dated 26-2-2001 terminating his services.

4. Likewise, it is not disputed that the workman, Shri Devappa Huchappa in CR No. 9/2004 joined the services of the management on 27-3-1986 and furnished his date of birth as 1-4-1960 as per the horoscope maintained by his parents and accordingly as per the membership application form maintained by the management disclosed his date of birth correctly as 1-4-1960 and so also correct particulars of his date of birth was also mentioned in all statutory records like EPF and 'B' Register. Therefore, he is entitled to continue in service up to 31-3-2018 upon reaching the age of superannuation i.e. 58 years of age. However, on 31-7-2001, after the expiry of the working hours, the first party was told not to come for work and removed his name from the muster roll on 31-7-2001 terminating his services w.e.f. 31-7-2001 itself on the ground that he reached superannuation age of 58 years as per the so-called illegal medical examination wherein, the medical examiner mentioned his age to be 55 years on his appearance.

5. Similarly, it is not in dispute that the Workman, Smt. Lakshmayya Mahadevappa in CR No.10/04 joined the services of the management on 3-5-1982 furnishing her age as 29 years and her date of birth as 14-4-1953 as per the horoscope maintained by her parents and her age and other particulars of her services have been correctly mentioned in membership application form maintained by the management. Her date of birth also has been entered in all statutory records like EPF and 'B' Register and therefore, she was entitled to continue in service up till reaching the age of superannuation i.e. 58 years. However, after the working hours on 31-3-2001, the workman was stopped coming to work and her name was removed from muster roll w.e.f. 1-4-2001 on the ground that as per the medical examination certified by the medical examiner on her appearance she appeared to be 55 years of age as on 1-1-1998 and therefore, reached the age of superannuation i.e. 58 years as on 31-3-2001.

6. The common grounds urged in the claim statement filed by all the three first party workmen are that the so-called medical examination done on 10-1-1998 showing their age as different from the age they have furnished to the management was illegal and invalid as neither the Doctor who is said to have examined them was a competent medical officer nor the purpose of medical examination was to ascertain age. They urged that the purpose of medical examination was to find out whether the workers were medically fit to work in the mines and therefore, the management wrongly and illegally terminated the services of the first party workmen prematurely and in the result, their termination orders are illegal and void ab initio to be interfered at the hands of this tribunal. They further contended that similarly, services of some other co-workers were terminated prematurely in the garb of aforesaid medical examination and those workers had challenged their premature retirement before the Hon'ble High Court in writ petition No. 5615/01 and succeeded in getting their termination order set aside by the Hon'ble High Court vide decision dated 29-3-2001. The management unsuccessfully challenged the above said order in the writ petition by way of Appeal No. 3460/01 and that appeal came to be dismissed by the Divisional Bench by the Hon'ble High Court by order dated 29-3-2001. They also contended that in view of the premature retirement, the EPF authorities have not agreed for sanctioning the family pension on the ground that they have reached the age of superannuation under the provisions of CPF Act, 1952 causing great hardship to these workmen. They contended that the management in refusing work to them by terminating their services have violated the provisions of ID Act as the action of the management terminating their services amounts to retrenchment as defined under Section 2(oo) of the ID Act and therefore, is highly illegal, untenable in the eye of law as undisputedly the management did not comply with the provisions of Section 25 F, G, H and N of the ID Act and Rules 78 and 79 of ID Act and rules framed thereunder.

7. The common grounds urged by the management in the Counter Statement filed in all these cases in brief are

that in the year 1997, Mysore Minerals Employees Association had requested the management to conduct medical examination for the employees and accordingly the management conducted medical examination for the employees including the first party workmen in these cases and the doctor who conducted the medical examination assessed the age of the workmen and issued the certificates in Form 'O' certifying their age and on the basis of the aforesaid certificates, services of the first party workmen were terminated on the ground that they attained the superannuation age of 58 years on the respective dates shown in the reference schedule. Now, therefore, the only question to be considered is whether the management could have terminated the services of the first party workmen on the basis of the aforesaid certificates issued in Form 'O' assessing the age of the first party workmen different from the age furnished by them to the management while joining the services and thereafter recorded in service records maintained by the management and entered into membership application form, statutory records like EPF and 'B' Register etc.

8. In the written arguments submitted by the learned counsel for the management, once again he reiterated the aforesaid contentions taken by the management in the Counter Statement saying that medical examination was conducted on the first party workmen at the request of the association representing their cause and it is on the basis of the medical examination certificates in Form 'O' was issued and thereupon their services were terminated acting upon the age ascertained as per the aforesaid certificates.

9. Whereas, learned counsel for the first party workmen common in all the three cases filed his written arguments arguing that the medical examination conducted by the management is only for the purpose of ascertaining as to whether they were medically fit to work in the mines of the management and not to ascertain their age that too just on their appearances. He contended that the method adopted by the management in ascertaining the age of the first party workmen and then terminating their services on the basis of the so-called medical examination giving the age different from the age recorded in the service records of the first party workmen was in violation of principles of natural justice and so also was illegal as absolutely no opportunity of personal hearing was given to the first party workmen either by conducting any sort of enquiry or by way of issuing any show cause notice to them on the basis of the aforesaid certificates issued in Form 'O'. Therefore, he submitted that termination was retrenchment as defined under Section 2(oo) of the ID Act read with Section 25F thereof. Learned counsel in support of his arguments that such type of termination was illegal and against the principles of natural justice and has been set aside by the Hon'ble High Court on the very same set of facts and point of law, relied upon the unreported decision of our Hon'ble High Court in Writ Petition No. 5615/01 confirmed by the Divisional Bench of the High Court in Writ Appeal No. 3460/01C/w W.A. No. 3459/01.

10. On going through the aforesaid decisions, I find very much substance in the arguments advanced for the first party workmen. As could be read from the aforesaid decisions, one Smt. K. Dundamma who was working with the present management itself as Mazdoor similarly, placed with the first party in this case had challenged her termination order dated 28-2-2001 which was again passed on the basis of so-called medical examination conducted by the management and the certificate in Form 'O' issued by the doctor concerned in ascertaining her age, in the year 1998, different from her age furnished to the management while joining the services and found mentioned in the service records maintained by the management. The very management which is involved in the present case was the management in the aforesaid case and had taken the very same stand in justifying the termination order which has been now taken by it opposing the present claims of the first party workmen. His Lordship of our Hon'ble High Court while deciding the above said dispute raised in the said Writ Petition set aside the termination order giving directions to the management not to change the date of birth of the petitioner in service register without adopting the procedure known to the law. The reasonings given by his Lordship on pages 4 to 6 read as under:

"As per Rule 29-B, the employees who are working in the Mines have to undergo a regular and periodical medical check up and this Rule is introduced only to protect the health of the employees concerned. From the perusal of Annexure-D, it is clear that the Medical Officer who has examined the Petitioner, has found that she is medically fit for an employment in mines. Only for the said purpose, the said certificate has been issued. The respondents, who have accepted the date of birth of the petitioner as 4-7-1947, have not entertained any doubt with regard to the age of the petitioner or her date of birth. Similarly, the respondents have not called upon the petitioner to undergo a medical check up to find out the correct age of the petitioner without there being any enquiry based on Annexure-D which has been issued by the Medical Officer for a different purpose, even without giving an opportunity for the petitioner while changing the date of birth of the petitioner in the service Register, has wrongly passed an order calling upon the petitioner to retire even before attaining the age of superannuation. Under any circumstances, Annexure-D cannot be considered as a basis to change the age of the petitioner in the service records. If the respondents have followed such a procedure, the same is contrary to the Rule and even if it is changed by the Respondent, it will not affect the service conditions of the petitioner as no enquiry is conducted. No opportunity has been given by the respondent before changing the records. It is relevant to state that in Annexure-D, viz. Form 'O', the doctor who has certified to the effect that the petitioner is fit for employment in the column left for showing the age of the patient by rounding off the figure 51, has

mentioned 55 years of age. The respondents are trying to rely upon the said portion. Therefore, it has to be held that it is most improper on the part of the respondent to adopt such a procedure. Therefore, the order passed as per Annexure-C so far as it relates to the Petitioner is concern, same has to be quashed. Accordingly, the same is quashed."

11. When the matter was taken up by way of appeal before the Divisional Bench of the Hon'ble High Court in the aforesaid writ appeals, their Lordship while confirming the decision in the aforesaid writ petition at Para 5 observed as under:

"Once the age is entered in service record, it cannot be changed unless the procedure prescribed for changing the date of birth is followed. In the instant case, merely on the basis of Doctor's report, on the basis of appearance, the age was changed from 49 years to 55 years in the service record. The medical report only reveals that it is, an intimation regarding the fitness of the employees and merely on the opinion of the doctor, age cannot be changed which is already entered in the service records. On consideration, we find no error or illegality in the order of the learned single judge. Writ appeals are dismissed."

12. Therefore, as could be read from the observations/principle laid down by their Lordship of our Hon'ble High Court in the aforesaid two decisions, the method adopted by the management in terminating the services of the first party workmen was disapproved on the ground that it was done without adopting the procedure known to the law. It has been made clear that when once the age is entered in the service record, it cannot be challenged unless the procedure prescribed for changing the date of birth is followed. Therefore, their Lordship further held the view that merely on the basis of Doctor's report which was in turn on the basis of appearance, the age of the employee cannot be changed as the medical examination only was for the purpose of ascertaining the medical fitness of the employee working in the mines and not for the purpose of ascertaining the age of the employee concerned. Therefore, the principle/observations laid down in the aforesaid decisions of our Hon'ble High court would apply to the present case on all its fours as involving similar facts and question of law and also were the decisions rendered against the very same management based on very same set of facts and point of law. In the result, the action of the management in terminating the services of the first party workmen shall have to be quashed as illegal and void ab initio. Since the termination orders are to be held as illegal and void, the natural corollary would be the reinstatement of the workmen into the services of the management.

13. Now, coming to the question of back wages and other reliefs as contended by the management, the dispute by the first party workmen has been raised after an inordinate delay of more than 3 years from the date of termination order not offering any explanation about the delay caused and therefore, the references are liable to be rejected. I am afraid such a view cannot be taken keeping in view the law now settled that on account of delay that too for about a period of 3 years, references cannot be rejected but the relief to be given to the party can be molded

accordingly. In the result, it appears to me in the interest of justice to hold that the first party workmen are entitled to back wages w.e.f. the dates of references before this tribunal. Accordingly, the first party workman in CR No. 2/2004 will not be entitled to any back wages for the period elapsed between his date of termination i.e. 28-2-2001 and the date of reference before this tribunal i.e. 11-12-2003. Whereas, the first party workmen in CR Nos. 9/2004 & 10/2004 shall be denied full back wages between their dates of termination and the dates of reference before this tribunal. Hence the following award:

AWARD

The management is directed to reinstate the first party workman (in CR No. 02/2004) in service with full back wages w.e.f. 01-01-2004 and to the workmen in CR Nos. 9/2004 & 10/2004 w.e.f. 05-02-2004 as per the dates of reference to this tribunal. The period elapsed between the dates of termination order and the aforesaid dates of references respectively, is hereby discounted for the purpose of continuity of service. Copy of the award be kept in CR Nos. 9/04 & 10/04. No costs.

(Dictated to PA transcribed by her corrected and signed by me on 5th December 2006)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 2 जनवरी, 2007

का.आ. 234.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अर्नाकुलम के पंचाट (संदर्भ संख्या 42/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-1-07 को प्राप्त हुआ था।

[सं. एल-12012/43/2004-आई आर (बी-II)]
राजिन्द्र कुमार डेस्क अधिकारी

New Delhi, the 2nd January, 2007

S.O. 234.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 42/2006) of the Central Government Industrial Tribunal-cum-Labour Court, ERNAKULAM as shown in the Annexure in the Industrial Dispute between the management of Canara Bank and their workman, which was received by the Central Government on 2-1-2007.

[No. L-12012/43/2004-IR (B-II)]

R. JINDER KUMAR, Desk Officer
ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM
PRESENT : Shri P.L. Norbert, B.A., L.L.B., Presiding
Officer

(Thursday the 7th day of December, 2006/
16th Agrahayana, 1928)

I.D. 42/2006

(I.D. 15/2004 of Labour Court, Ernakulam)

Workman

A.K. Pankajakshan
Puthenvetil House
Chendrapiny P.O.
Thrissur

Adv. Shri H.B. Shenoy

Management The General Manager
Canara Bank, Circle Office
Spencer Junction, M.G. Road,
Thiruvananthapuram.

Adv. Shri R.S. Kalkura

AWARD

This is a reference made by Central Government under Section 10(1)(d) of Industrial Disputes Act, 1947 for adjudication. The reference is :—

“Whether the action of the management in terminating the services of Shri A.K. Pankajakshan, Deposit Collector is legal and justified? If not, what relief is the concerned workman entitled to?”

2. The facts of the case in brief are as follows:

According to the worker Shri A.K. Pankajakshan, he was an agent of Nitya Nidhi Deposit (NND) Scheme and Bala Kshema Deposit (BKD) Scheme of Kodungallur Branch of Canara Bank since 8-10-1977. While so, his service was suspended in December, 1995.

Thereafter the workman has been approaching the bank seeking continuance in service. But he was informed by the manager that after hearing from higher authorities he would be intimidated. Later, when he approached the management, he was told that the verdict in Deposit Collection Agent's case pending before National Industrial Tribunal, Hyderabad is awaited. That award was challenged before Andhra Pradesh High Court and finally before Hon'ble Supreme Court. The management was waiting for the decision in order to give a final reply to the demand of the worker. The decision of the Hon'ble Supreme Court was on 13-12-2001 finding the Deposit Collectors are 'workmen' within the meaning of S-2 (s) of I.D. Act. The workman contends that unemployment for a long time amounts to termination of service. However, the worker was not given a notice or wages in lieu of notice or compensation at the time of termination of service. No enquiry was conducted. The family of the worker depends on him for sustenance. He has no other source of income and the family is starving. The worker is entitled to be reinstated with back wages, continuity of service and all other benefits.

3. The management in their written statement contends that the dispute is barred by limitation and is stale. The service of the worker was discontinued w.e.f. December, 1993. It is after more than 8 years that he has raised the industrial dispute. During October, 1993 to December, 1993 many customers had complained that the worker was not in the habit of issuing printed receipts of bank to them while taking collection and that there was differences in remittances and entries in the bank records. The bank therefore asked him to stop collection in BKD scheme. Thereafter the agency was not renewed since BKD Scheme itself was withdrawn during 1994. The BKD agents were advised not to open new accounts after 10-6-1994. The worker had requested by letter dated 22-10-1997 for permission to continue as NND/BKD agent and not for

employment in bank. The Supreme Court's decision in Indian Banks' Association case though held that the deposit collection agents are 'workmen' within the definition of I.D. Act, they are not entitled for absorption. There is no illegal termination of service of the worker.

4. In the light of the above contentions of the parties the following points arise for consideration :—

(1) Is the Industrial Dispute stale or barred by limitation?

(2) Is the termination of service of the worker legal and proper?

The evidence consists of the oral testimony of WW1 and documentary evidence of Exts. W1 to W5 on the side of worker, and MW1 and Exts. M1 to M12 on the side of management.

5. Point No. (1):

It is an admitted fact that the workman was a deposit collection agent in Kodungallur Branch of Canara Bank since 8-10-1977. He was not engaged by the bank since December, 1995 admittedly. The reference was made on 28-6-2004. According to the management there is a delay of more than 8 years in raising the dispute. But according to the worker he was approaching the management time and again, demanding engagement and continuance in service. But he was told to wait until the higher authorities of the bank took a decision in the matter. Thereafter he was told to wait until the decision of National Industrial Tribunal, Hyderabad where the same issue was pending. However the decision of National Industrial Tribunal was challenged in Andhra Pradesh High Court and finally before Hon'ble Supreme Court and the final verdict came on 13-12-2001. Hence the worker could raise an industrial dispute only thereafter.

6. Ext. W1 is Identity Card showing that the worker was a collection agent of Canara Bank since 8-10-1977. Ext. W2 is a letter of the worker to the bank dated 22-10-1997 requesting the bank to allow him to continue as commission agent. Ext. W2 (a) is the acknowledgment card of Ext. W2. Ext. W3 is the reply of the bank dated 28-1-1998 to Ext. W2. The reply was that the letter dated 22-10-1997 was received by the bank and since the BKD scheme was not in vogue the bank was unable to permit him to make collections. However, the bank said that it would revert to him after hearing from the Regional Office. Thereafter nothing was heard from the bank. Meanwhile an award was passed by the National Industrial Tribunal, Hyderabad on the same issue on 22-12-1988 which was published on 24-5-1989. It was challenged before Hon'ble High Court and again before Hon'ble Supreme Court and final verdict came on 13-12-2001. The bank was thus waiting for the verdict. But even thereafter there was no reply from the bank to the worker. Hence he approached the Assistant Labour Commissioner (Central) on 5-12-2003 raising an industrial dispute. There was conciliation. Since no settlement could be arrived a failure report was sent by ALC(C) to Government on 23-2-2004. Ext. W4 is the failure report. It is thereafter on 28-6-2004 that the reference was made. The

above circumstances reveal that the worker was not sleeping over the matter. He was demanding employment to the management. But the management asked him to wait until a final decision was taken by the Regional Office. But no final decision was intimated to the worker till date. Thus the worker was waiting for a favourable reply. Meanwhile a final decision was taken by the apex court on the same issue. It is under these circumstances that the dispute was delayed. There is no laches on the part of the worker.

7. However the learned counsel for the management contended that the dispute raised beyond 3 years is barred by limitation and is stale. He tried to find support for his contention in the following decisions :—

In *Nityanand v. LIC of India* AIR 1970 SC 209, the question was whether Article 137 of Limitation Act was applicable to a proceeding u/s-33 C (2) of I.D. Act before a Labour Court or Industrial Tribunal. In para 3 it was held that A-137 of Limitation Act would apply to an application filed in a court and not in a quasi-judiciary body like Labour Court or Industrial Tribunal.

In *Kerala State Electricity Board v. T.P. Kunhaliumma* AIR 1977 SC 282 in paragraph 22 of the judgement it is held that though Article 137 of Limitation Act applies to petitions and applications it is not confined to petitions or applications under civil procedure code, but extends to any statute. However such petition or application should be one filed in a court and not in a quasi-judicial body like Industrial Tribunal or Labour Court.

In *State of Punjab v. Gurdev Singh* AIR 1992 SC 111 it was held that a suit for declaration that dismissal of an employee was illegal was governed by Article 113 of the Limitation Act. But it is to be noted that it was suit filed in a court and not in a quasi-judicial body, like Labour Court or Industrial Tribunal.

In *Assistant Ex. Engineer, Karnataka v. Shivalinga* 2002 I-L.L.J. 457 it was observed that there was a delay of 9 years in raising the dispute and it has become stale because delay had come in the way of maintenance of records or by the management and hence the delay has created prejudice to the management.

In *Haryana State Coop. Land Dev. Bank v. Neelam* 2005 I-L.L.J. 1153, a typist who was appointed on ad hoc basis, was terminated. She raised industrial dispute after 7 years. It was held that she has not approached the court within the reasonable time and the claim was belated and no relief therefore could be granted. It is to be noted that the court has not made any observation regarding application of Limitation Act. It only said that there was inordinate delay.

The learned counsel for the worker relied on the decision in *Ajaib Singh v. Sirhind Coop. Marketing-cum-Proc. Service So. Ltd.* 1999 I-L.L.J. 1260 wherein it is observed in paras 8 & 10 that Article 137 of Limitation Act does not apply to proceedings under I.D. Act. An application or petition contemplated in Article 137 is an application or petition to a court and not to a quasi-judicial body.

The other decision relied on by the worker is, *Employers in relation to Management of Sudamdib Colliery of Bharat Coking Coal Ltd. V. Their workman* 2006 I-L.L.J. 820. In paragraph 10 it is observed that no formula of universal application could be laid down with regard to delay in raising a dispute and it would depend on facts for each individual case.

8. In the light of the above observations the contention of the management that the dispute is barred by limitation, cannot stand. Moreover, I have already found that there was sufficient reason for the delay and the delay is explained by him. Therefore, the dispute is neither barred by limitation nor has it become stale.

9. Point No. 2 :

The worker was a deposit collection agent since 8-10-1977. According to the worker his service was suspended from December, 1995. According to the management the service of the agent came to a natural end when the deposit scheme was stopped. Neither the worker nor the management is prepared to admit that there was termination of service of the worker. However the learned counsel for the worker at last conceded that non-engagement of the worker for a long time amounts to termination of service. The question is whether such termination or stoppage of service was the natural consequence of the nature of engagement or was it caused by the management. Ext. M1 circular is the only document showing the deposit scheme was stopped by the bank since 1-6-1994. The circular was issued to all the branches of the bank. The scheme that was stopped by Ext. M1 circular is Bala Kshema Deposit Scheme. The instruction in that circular is that no new accounts be opened under BKD Scheme w.e.f. 1-6-1994. This is an instruction given to managers of the bank by way of a circular. However, the collection in the existing accounts was continued until December, 1995. Thereafter the worker was not engaged. Other than the circular there was no other intimation to the worker. According to the management since the collection agent was appointed on contract basis as per an agreement when the scheme came to an end his work also came to an end. There was no question of terminating the service of the worker by the bank.

10. Ext. M9 is an agreement executed by worker on 8-10-1977. Though, according to the management, it was an agreement for agency in NND as well as BKD, the agreement mentions only one scheme, which is NND. Ext. M8 is another agreement executed by the worker on 19-9-1991. That was for agency in BKD scheme. It was contended by the management that when the 2nd agreement Ext. M8 was executed by the worker the 1st agreement Ext. M9 stood impliedly cancelled. This contention of the management would have been sound has the 1st agreement been a combined agreement for NND and BKD schemes. But it was only for NND scheme. After 1977 Ext. M9 agreement for NND Scheme was never renewed till date. In 1991 the worker also became an agent of BKD scheme and so executed Ext. M8 agreement. Unless it is mentioned either in Ext. M8 or in another document that

the NND agency was cancelled there is no question of an implied cancellation. Even in 1991 the worker was continuing as NND agent and was making collections. The management has no quarrel that one and the same person could be an agent of NND and BKD scheme at the same time, but only in one branch. It is also fortified by Ext. M7. Ext. M7 is a circular regarding New Nitya Nidhi Deposit (NNND) Scheme which commenced on 19-11-1983. Clause 17 of Ext. M7 mentions that an agent in NNND scheme engaged should be exclusively for one branch only. There is no objection for engaging him as agent of BKD/NNND scheme in the same branch. But he cannot enter into agency agreement for NNND, BKD or NND with any other branch. Thus, there was no bar in carrying on agency in all the 3 schemes by the same agent, but only in one branch. As already mentioned neither the NND agency of the worker was cancelled nor the scheme was ever stopped as contended by the management. Other than Ext. M1 circular stopping the BKD scheme there is no other scrap of paper to show that NND scheme was stopped at any time. Even Ext. M7 circular regarding NNND does not mention that NND scheme was stopped. On the other, Clause 17 of Ext. M7 referred already fortifies the contention of the worker that NNND and NND schemes are being continued even now. The worker has a further case that even BKD scheme was resumed later. But as per Ext. M1 circular that was stopped in June, 1994. Whatever that be, the agency of NND scheme is not seen cancelled or scheme stopped at any point of time. If it was so the management was not justified in denying work under NND scheme after a long period of service without notice. Even if the contention of the management that it was after stopping NND scheme that NNND scheme was started in 1983, Clause 17 of Ext. M7 again says that "The number of NNND Agents in a branch should not exceed the number of existing NND agents in that branch. That means the agency should be given only to the willing existing NND/BKD agents. If the branch has not so far introduced NND/BKD scheme such branches may engage one new NNND agent in consultation with the Divisional Office as per procedure. Ext. M2 is the relevant page of Manual of Instructions on NNND. Para 21.1.1 & 2 say that agency should be given only of the willing existing NND/BKD agents. There is no objection to his being continuing as NND/BKD agent in the same branch. Existing NND agents who refuse to take up NNND agency should not be given the agency if they subsequently apply. Further, agents terminated under NND/BKD scheme should also not be appointed as NNND agents. According to the management the worker had an option to apply for NNND agency as per Ext. M2. But he did not apply for it. As already mentioned in Ext. M2 & M7 it is consistently stated that the NNND agency has to be given to existing NND/BKD agents. If they refuse only it can be given to anybody else and their candidates cannot be considered later. So also, if an NND/BKD agency is terminated they too shall not be appointed as NNND agents. In this case, even according to the management there was no termination, only a natural end of the service. That means the service of the worker was terminated not due to any fault of the

worker. However he continued to be an NND agent. The worker was not given an opportunity to apply for NNND agency. Ext. M7 circular was issued to Branch Managers. It need not necessarily come to the knowledge of agent on time. There can be only one agent in a branch. Therefore the Branch Manager should have, as per the instructions in the circular, asked the willingness of the worker for NNND agency. That was not done in this case. It is not correct to say that the worker should have voluntarily applied for NNND agency.

11. Assuming that BKD scheme was stopped since 1-6-1994 the NND scheme was continued. No notice was given to the worker before termination. His agreement was for an indefinite period until the management chose to terminate. It was not renewed periodically. There was just one agreement in 1977 in NND scheme. His service was however stopped since December, 1995. The management has a contention in the written statement that the customers had complained to the bank during October-December, 1993 that there were differences in remittances and entries in bank records and that he was not in the habit of issuing printed bank receipts to the customers. However on that basis there was no enquiry or action against the worker. At the same time it is contended in the written statement that due to the complaints the worker was asked to stop collection in BKD scheme. This must have been either in December, 1993 or early January 1994. It is thereafter on 1-6-1994 that opening of new accounts in BKD scheme was stopped and the scheme itself was stopped in December, 1995. Therefore before the end of the scheme the worker was denied engagement by asking him to stop collection in BKD scheme. Hence the denial of employment was not merely on the basis of the stoppage of the scheme. Even before that he was asked to stop his work of collection. That was not with prior notice.

12. The learned counsel for the management contended that the agency was on contract basis and it came to an end at the end of the contract period. To support his contention the learned counsel relied on the decision in Haryana State Agricultural Marketing Board v. Subash Chand 2006 II-L.L.J. 241. In that case the respondent was appointed on contract basis as Arrival Record Clerk during paddy and wheat season. It was held that the appointment was on contract basis and there was no illegality in terminating the service of the clerk as the appointment was for a short period and there was a clause that at the end of the contract period his service will stand terminated.

In Municipal Council v. Raj Kumar 2006 II-L.L.J. 553 a clerk was appointed on contract basis. He worked for more than 240 days as such. It was held that there was a stipulation in the contract for terminating his service without further notice and hence 2nd para of S-2 (oo) (bb) of I.D. Act was applicable and termination was legal.

In Municipal Council v. Sukhwinder Kaur 2006 III-L.L.J. 502 the question that arose for consideration was whether the employment was on contract basis and whether S-2(oo) (bb) would apply if service is terminated. It was held that the appointment was on contract basis and hence

there was no violation of S-25F of I.D. Act on termination of service at the end of contract period.

13. These rulings do not come to the help of the management. Though the agency was on contract basis it continued for many years since 1977 without renewal. There was no stipulation that the contract would come to an end on the expiry of a certain period. Ext. M9 clause 12 stipulates that the agency shall continue to remain in force until otherwise terminated by the bank at its discretion. Thus the agency work was perennial in nature.

14. It is relevant to note that in Indian Bank Association v. workmen of Syndicate Bank. 2001 I-L.L.J. 1045 it was held by the Hon'ble Supreme Court that deposit collection agents are 'workmen' within the meaning of S-2(s) of I.D. Act. Therefore whatever be the nature of contract regarding agency in view of the decision in Indian Banks' Association case the agent is a workman u/s-2(s) of the Act. If he is a workman and fulfils the conditions of S-25F of I.D. Act he is entitled to the benefits under I.D. Act. He cannot be terminated without prior notice if he has completed continuous service of 240 days in an year. In this case the worker was not given any intimation in writing or notice that is contemplated u/s-25F of I.D. Act. There can be no dispute that the worker has worked continuously for more than 240 days as commission agent. The learned counsel for the management relying in the decision reported in Surendra Nagar District Panchayat v. Dahiyabai Amar Singh (2205) 8 SCC 750 argued that the burden is on the workman to prove that he has worked for 240 days in an year. But in the instant case there are enough records (Exts.W1, M8 & M9) to show that the worker had been in service of the bank as commission agent from 1977 to 1995 December. Therefore that contention of management is without merits. If he has completed 240 days he is entitled for one month's notice in writing as per S-25F (a) of I.D. Act. If he is not given notice then wages for one month and compensation as contemplated in sub-clause (b) of S25 F are to be given. Without notice in writing the denial of employment or termination of service or stoppage of service, by whatever name it is called, amounts to retrenchment u/s-2(oo) of the Act. There is no case for the management that he was given a notice of termination or compensation in lieu of notice. Being a worker u/s-2(s) of the Act and having completed 240 days in an year, he is entitled to the protection under S-25F of the Act, without which the termination would be illegal. Subsequent payment of compensation under S-25F is not sufficient. It should have been given at the time of termination and in this case in December, 1995 or as soon as he was asked to stop collection under BKD scheme either in the end of 1993 or early January, 1994 and at any rate in December, 1995 when he was not further engaged in NND scheme. Thus the termination is illegal.

15. In the result, an award is passed finding that the action of the management in terminating the service of Shri A.K. Pankajakshan, Deposit Collector, is not legal and proper. He is entitled to be reinstated with back wages calculated on the basis of the average remuneration paid

by way of commission in the year preceding his termination. He is also entitled to continuity of service and other benefits, if any. He is also entitled to cost. The award will take effect one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 7th day of December, 2006.

P.L. NORBERT, Presiding Officer

APPENDIX

Witness for the Workman :

WW1 — A.K. Pankajakshan

Witness for the Management :

MW1 — B. Hari

Exhibits for the Workman :

W1— Identity Card issued by Canara Bank to A.K. Pankajakshan.

W2— Photostat copy of letter dated 22-10-1997 sent by A.K. Pankajakshan to Canara Bank.

W2(a)— Postal acknowledgement card.

W3— Photostat copy of letter dated 28-1-1998 issued to A.K. Pankajakshan by Canara Bank.

W4— Copy of failure of conciliation report dated 23-2-2004 forwarded to M/o Labour by A.L.C.(C).

W1— Photostat copy of Kamadhenu Deposit Account dated 1-10-2002.

Exhibits for the Management :

M1— Photostat copy of circular No. 109/94 of Canara Bank dated 19-4-1994.

M2— Photostat copy of Manual of Instructions reg. NNND scheme.

M3— Photostat copy of complaint dated 19-1-2004 written by K.N. Sethumadhavan to Canara Bank.

M4— Photostat copy of complaint written by K.G. Kanakappan Achary to Canara Bank.

M5— Photostat copy of complaint dated 10-1-1994 written by K.N. Sethumadhavan to Canara Bank.

M6— Photostat copy of letter dated 22-10-1997 sent by A.K. Pankajaksha to Canara Bank.

M7— Photostat copy of circular No. 458/83 of Canara Bank dated 20-9-1983 & other circulars.

M8— Photostat copy of agreement dated 19-9-1999 between Canara Bank & A.K. Pankajakshan.

M9— Photostat copy of agreement dated 8-10-1977 between Canara Bank & A.K. Pankajakshan.

M10— Photostat copy of receipt dated 1-10-1977.

M11— Photostat copy of letter dated 19-9-1991 sent by K.Viswanatha Menon to Canara Bank.

M12— Photostat copy of letter dated 19-9-1991 sent by Suresh K.S. to Canara Bank.

नई दिल्ली, 2 जनवरी, 2007

का.आ. 235.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, मुम्बई के पंचाट (संदर्भ संख्या 1/55/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-1-2007 को प्राप्त हुआ था।

[सं. एल-12012/150/90-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 2nd January, 2007

S.O. 235.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1/55/90) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 2-1-2007.

[No. L-12012/150/90-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT : Justice R.S. Verma, Presiding Officer

Reference No. CGIT-1/55 of 1990

Parties :—Employers in relation to the management
of Central Bank of India

And

Their workmen

APPEARANCES

For the Management	: Shri Talsania, Advocate
For the Workman	: Shri Nabar, Advocate
Industry	: Banking
State	: Maharashtra

Mumbai, dated the 3rd day of July, 1996.

AWARD (Part-I)

Appropriate Government has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the employer of Central Bank of India in terminating the services of Smt. Rekha

I Mehta, Clerk, Malad Branch w.e.f. 30-5-1988 is justified? If not, what relief the concerned workman is entitled to?”

2. Brief facts giving rise to this dispute are that Mrs. Rekha Mehta was an employee of the Central Bank of India and at the relevant period was posted in the Sundar Nagar Branch of the said Bank on 17th June, 1983, a Saving Bank Account was opened at the said branch in the name of one Gopal Krishna Narayan Rao, being A/c. No. 8615. The account was opened with an initial cash deposit of Rs. 15. An amount of Rs. 150 was deposited on 2nd July, 1983 making a balance of Rs. 165. It appears that there was an inter relation in the ledger of the said account. So that entry of Rs. 150 was made to read Rs. 10,150 and the entry pertaining to the balance was made to read Rs. 10,165. On the basis of such ledger entries, a sum of Rs. 8000 was withdrawn by the A/c. holder on the basis of cheque No. 861 drawn on self on 5th July, 1983.

3. On 8th July, 1983 a sum of Rs. 1,000 was deposited in cash and a ledger entry for this amount was made, which was subsequently interpolated to read 4,1000 and like wise the balance entry was also manipulated to read Rs. 43,165 on 15th and 18th July 1983, sum of Rs. 120 and Rs. 20000 were respectively withdrawn by self cheques. On 22nd July, a sum of Rs. 19,500 was withdrawn by cheque No. 866.

4. On 25th July, 1983, a sum of Rs. 1,000 was deposited in cash in the said account. However, again there were alterations made, making the balance to read as Rs. 22,758.

5. Thus against actual deposit of Rs. 2,165 sums aggregating to Rs. 48,700 were withdrawn and thus the Bank was defrauded and put to a financial loss of Rs. 46,535.

6. The case of the management initially was that Mrs. Rekha Mehta being in charge of the ledger acted negligently, with the result the entries in question could be interpolated and amounts as state above could be withdrawn and thus financial loss to the tune of Rs. 46,535 was caused to the Bank. The management issued a show cause notice to Mrs. Rekha Mehta on 4-8-83 asking her to explain the acts of negligence in maintenance of the ledger, which resulted in loss to the tune of Rs. 46,535 to the Bank.

7. Mrs. Mehta denied the charges of negligence and submitted a detailed reply alleging that she had made all the postings in the ledger correctly and she had no occasion to doubt the genuineness of the various entries because they bore initials of the concerned officer. She also alleged that the ledger should have been kept in lock and key but was allowed to lie open after office hours, enabling the interpolations in question to be made.

8. The management did not find the explanation of Mrs. Mehta satisfactory and issued a written warning to her on 22-1-85. It would be useful to reproduce this letter of warning in extenso. It reads thus :

Central Bank of India,
Telegraphic Address:
Telephone No. 539325

North Bombay Divisional Office,
Janta Education Society's
School Bldg., Khar Nagar,
Bandra (East), Bombay-400 051

Dated 22nd January, 1985

NBRO/FRS/85/393(22-1-1985)

WARNING MEMO

Mrs. R.I. Mehta, Teller Clerk, working at Sunder Nagar Branch is hereby informed that her reply dated 11-8-83 in reply to Sunder Nagar Branch Manager's memo dt. 4th August, 83 for acts & negligence on her part causing financial loss to the bank to the extent of Rs. 46535 has been on careful scrutiny found to not satisfactory and pending further disciplinary action against her for such acts of negligence, it has been decided to warn her to be more cautious in performance of her duties, failing which or even otherwise as a sequel to the present case, the Management reserves the right to take appropriate disciplinary action against her as it may deemed just fit and proper besides recovering the amount so lost to the bank on account of the negligent acts on her part, in proportion as may be decided at appropriate time if in case the efforts of the bank to recover such loss from the fictitious account fails.

Sd/-
Regional Manager
B.R.O.

Mrs. R.I. Mehta,
Teller Clerk
Central Bank of India,
Sunder Nagar Branch

9. It appears that the management got certain investigations conducted and upon the basis of such investigation, a fresh memo was served on the workman on 2nd March, 87, of investigations specifically charging her with the alligations in the aforesaid ledger. By this memo, she was asked to show cause why disciplinary action be not vitiated against her. The workman submitted her reply to the show cause notice on 21-3-87. This reply did not satisfy the management and the management eventually issued a memo to the workman. She submitted a reply dated 18th March, 1987 wherein she reiterated her earlier stand.

Eventually, not satisfied, the management issued chargesheet dated 25-5-87 wherein it was specifically alleged that the interpolations mentioned above had been made by the workman herself. By this chargesheet, one Shri V.V. Ayachit was appointed Enquiry Officer. A domestic enquiry was then conducted and as a consequence of the findings of the Enquiry Officer, the disciplinary authority issued notice to the workman on 28-4-88 as to why she should not be dismissed from service. The workman submitted a detailed reply to the said show cause notice but the same was not found satisfactory and the Disciplinary Authority inflicted the punishment of Dismissal from Banks 'service without notice' by order dated May 30, 1988. An appeal was filed by the workman against this order. She was given a personal hearing by the appellate authority on 09-09-1988 and the appeal was finally dismissed by an order dated 9th January, 1989.

10. To complete the narration, it would not be out of place to mention that the Bank also lodged a complaint with the Police on 29th July, 1983 but the Police could not catch hold of the culprit and closed the case on 31-7-1984.

11. The union took the matter in conciliation. There was a failure report and the dispute was eventually referred to this Tribunal as stated earlier.

12. The union filed its written statement of claim on 4-12-90. The Bank filed its reply on 8-2-91. It also filed documents pertaining to the proceedings of the domestic enquiry.

13. On 13-12-94, the parties jointly filed an application to the effect that the question of the fairness, legality and propriety may be tried as a preliminary issue; the correctness and genuineness of the proceeding of enquiry were not disputed. The parties did not desire to lead any oral evidence on this oral issue. This is how, the matter has come up before me for arguments on the preliminary issue. The arguments were concluded on 6-6-96 and the order was reserved. By the present order, I propose to decide the preliminary issue.

14. The first and foremost contention of the union is that the domestic enquiry was held after an inordinate delay and on this ground of delay, the enquiry should be held to be vitiated as being contrary to principles of natural justice. Shri Nabar for the union urged with great vehemence that delay in holding the domestic enquiry has vitiated the enquiry. Mr. Talsania for the management has submitted that this was a case where forgeries had been committed, interpolating with the entries in the Banks accounts fraudulently. The matter needed thorough investigation and this naturally took time and hence delay if any is not material. It has not caused any prejudice to the workman. At least none has been pleaded or demonstrated.

15. I have considered the rival contentions. Unexplained delay in certain circumstances may definitely

vitiate a domestic enquiry. But, no hard and fast rule can be laid down in this regard. It would depend upon the facts of each case viz. the gravity of the charge, the reasons for delay in holding domestic enquiry the prejudice that might have been caused due to delay. In the present case, I have already given a narration of the relevant facts. When forgeries and frauds are committed and the real perpetrator/perpetrators of the crime are not known, investigation into facts may take much time, as has happened in the present case. Initially, the management did not at all suspect the workman and hence it proceeded with due care and caution charged and workman only with negligence. When investigations were made further and the facts were probed and the alleged complicity of the workman was detected than a domestic enquiry was commenced. Hence, I find that delay in the present case is not of much significance of consequence. Moreover, the union has not shown as to how and what prejudice has been caused to the workman due to the alleged delay. I, therefore, hold that the union is not right in contending that delay in holding the domestic enquiry has vitiated the enquiry in any manner.

16. The next contention of Mr. Nabar was that in this case, workman has been subjected to double jeopardy; earlier she was warned for negligence. As such, the management could not have made a new enquiry at all. I find, to say the least, the contention is totally misconceived and not based on correct appreciation of the circumstances of the case. Till the maker of the forgeries was not detected, the management could not have made any domestic enquiry on the basis of alleged charges of forgery against the workman; when it was so, earlier punishment of warning alone could have been administered on the basis of alleged negligence of the workman. To my mind, the principle of double jeopardy is not attracted to the present case at all and earlier imposition of punishment of warning did not preclude the management from holding a fresh domestic enquiry on a graver charge of forgery. Even in criminal cases, if an accused is convicted or acquitted of a minor offence, he cannot be allowed to contend that trial for a graver offence, is barred on the principle of *autrefois acquit* or *autrefois convict*. Moreover, the management had specifically reserved its right to proceed against the workman on more facts coming to light. Thus, this contention is also devoid of all merit and deserves to be rejected.

17. Shri Nabar has very vehemently and with his usual favour has urged that the Enquiry Officer did not allow the workman to get disputed interpolations examined by her handwriting expert on specious grounds and this deprived the workman from establishing that the impugned interpolations were not in her handwriting at all. Shri Talsania has urged that the workman insisted that the disputed documents be sent to the officer of her handwriting expert. This was a wholly unreasonable demand and the Enquiry Officer very rightly refused to accede to

this demand upon which the workman refused to cooperate with the Enquiry Officer and hence Enquiry Officer cannot be blamed and on this ground the enquiry cannot be held to have been vitiated.

18. I have given my earnest consideration to these contentions. No party has a right to insist that the disputed documents and the specimen documents be sent to the office of its handwriting expert. The handwriting expert is not amenable to the disciplinary control of the management. If documents are lost, damaged or tampered with while in the office of such handwriting expert, the management would be rendered helpless and valuable allegedly incriminating evidence would go out of its control. Hence, I find that this contention of the workman is devoid of merit and deserves to be rejected out right.

19. A grievance was also raised that the Enquiry Officer had put certain unreasonable conditions regarding the production of the handwriting expert of the workman viz. his written report should be placed on record and he should be produced for cross-examination as and when required. I find that this exercise was only academic and theoretical, particularly when the handwriting expert of the workman never examined the documents. Hence, nothing of consequence turns upon this aspect of the matter.

20. A further contention was raised that the Enquiry Officer referred the matter of sending disputed documents to the office of the handwriting expert of the workman to the disciplinary authority and thus he abdicated his powers in favour of a superior authority and thus did not act freely and impartially. I do not think that the Enquiry Officer could have allowed valuable documents to go out of his custody without permission of his superiors. In doing so, the Enquiry Officer did not commit any impropriety; nor can it be said that he was not a free or independent Enquiry Officer.

21. On a conspectus of the entire circumstances of the case, I am of the view that the domestic enquiry held against the workman was fair, legal and proper.

22. However, now the question arises if the charge levelled against the workman has been established to the satisfaction of the Tribunal. Here, I would like to point out that the workman by her own conduct prevented a handwriting expert of her choice, to throw light on the question of authorship of the interpolations in the impugned documents. It was a foolish action on the part of the workman and I feel that her folly or the folly of her representative at the enquiry should not come in the way of finding out the truth. When the management has examined a handwriting expert to prove its case, it would be in fitness of things that a second opinion is also obtained on behalf of the workman before deciding this crucial issue.

23. Hence, I direct that in case the workman intimates the management, about its desire to get the disputed documents and specimen handwritings of the workman

examined by a handwriting expert of her choice, by a written request withing 15 days of intimation of this order to the workman, the management shall allow and permit the handwriting expert named by her, to examine and photograph the said documents on a specified day within office hours on any working day, convenient to such handwriting expert. After such examination, if the workman is desirous of examining such handwriting expert in the Tribunal in support of her defence, the workman shall furnish the written report of the said handwriting expert with photographs including enlargements, negatives etc. to the Tribunal within one month of the examination of the documents, with copies of such report and photographs and enlargements, if any to the other side within the aforesaid period, and the handwriting expert shall be kept present for his evidence in the Tribunal on 18-9-96.

Both the parties be intimated of this order expeditiously. But this shall be entirely the choice of the workman and there is no compulsion that she do get such examination done or do submit such report etc.

R.S. VERMA, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT : Justice Ghanshyam Dass, Presiding Officer

Reference No. CGIT-55 of 1990

Parties Employers in relation to the management
of Central Bank of India

And

Their workmen

APPEARANCES

For the Management : Mr. R.S. Pai, and
Mrs. Bindu Grover, Advs.

For the Workman : Mr. Nabar, Advocate

State : Maharashtra

Mumbai, dated the 14th day of December, 2006

AWARD (Part-II)

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of Sub-section 1 of Section 10 of the Industrial Disputes Act 1947 (the Act, for short) *vide* Government of India, Ministry of Labour, New Delhi Order No. L-12012/150/90-IR (B-II) dated 03-08-1990. The terms of reference given in the schedule are as follows:

“Whether the action of the employer of Central Bank of India in terminating the services of Smt. Rekha

1, Mehta, Clerk, Malad Branch w.e.f. 30-5-1989 is justified? If not, what relief the concerned workman is entitled to?”

2. Mrs. Rekha I, Mehta (hereinafter referred to as workman) was employed with the Central Bank of India (hereinafter referred to as the Bank at the relevant period in Sunder Nagar Branch. On 17-6-1983 a Saving Bank Account was opened at the said Branch in the name of one Gopal Kumar Narayan Rao being Account No. 8615. The account was opened with an initial deposit of Rs. 15. An amount of Rs. 150 was deposited on 02-7-1983 making a balance of Rs. 165. It is alleged that interpolation was made in the ledger and the said entry of Rs. 150 was made to read as Rs. 10,150 showing the balance to be read as Rs. 10,165. On the basis of this, a sum of Rs. 8000 was withdrawn by the account holder on 5-7-1983. On 8-7-1983 a sum of Rs. 1000 was deposited in and the ledger entry was interpolated to read it as Rs. 41,000/- Likewise, the balance entry was manipulated to read as Rs. 43,165 on 15th and 18th July 1983, a sum of Rs. 1200/- and Rs. 20,000 were respectively withdrawn and subsequently on 22-7-1983 Rs. 19,500 was withdrawn by the account holder. On 25-7-1983 a sum of Rs. 1000/- was deposited. The interpolation was again made to read the balance as Rs. 22,758. Thus, against a total deposit of Rs. 2,165/- a sum of Rs. 48,700/- was withdrawn and thus, the Bank was defrauded for a loss of Rs. 46,535. The workman was issued show cause notice on 4-8-1983 for the aforesaid negligence causing loss to the Bank which was naturally denied. His explanation was not found to be satisfactory and the workman was issued a warning memo dt. 22-1-1985.

3. It appears that the Management got certain investigation conducted and upon the basis of such investigation a fresh memo was served upon the workman on 2-3-1987 specifically charging her with the allegations of interpolations in the aforesaid ledger. The workman was asked to show cause as to why disciplinary action may not be initiated against her. The reply was submitted which was not found to be satisfactory, with the result, the workman was issued charge sheet dt. 25-5-1987. Mr. V.V. Ayachit was appointed as Enquiry Officer. The domestic enquiry was conducted. The Enquiry Officer recorded the finding against the workman. The show cause notice was issued which was duly replied by the workman. Finally, the punishment of dismissal from Banks service was passed on 30-5-1988. The appeal was preferred by the workman but the Appellate Authority did not find any merits in the appeal and finally dismissed it *vide* order dt. 09-1-1989.

4. The management of the Bank contended that the dismissal order has been passed in accordance with law after holding a just and fair enquiry and after following norms of principles of natural justice.

5. Part-I Award in the reference was made by the then learned Presiding Officer *vide* Order dtd. 03-7-1996. Para 22 and 23 of which are quoted below:

22. However, now the question arises if the charge leveled against the workman has been established to the satisfaction of the Tribunal. Here, I would like to point out that the workman by her own conduct prevented a hand writing expert of her choice, to throw light on the question of authorship of the interpolations in the impugned documents. It was a foolish action on the part of the workman and I feel that her folly or the folly of her representative at the enquiry should not come in the way of finding out the truth. When the management has examined a hand writing expert to prove its case, it would be in fitness of things that a second opinion is also obtained on behalf of the workman before deciding this crucial issue.

23. Hence, I direct that in case the workman intimates the management, about its desire to get the disputed documents and specimen handwritings of the workman examined by a hand writing expert of her choice, by a written request within 15 days of intimation of this order to the workman, the management shall allow and permit the hand writing expert named by her, to examine and photograph of the said documents on a specified day within office hours on any working day, convenient to such hand writing expert. After such examination, if the workman is desirous of examining such handwriting expert in the Tribunal in support of her defence, the workman shall furnish the written report of the said handwriting expert with photographs including enlargements, negatives etc. to the Tribunal within one month of the examination of the documents, with copies of such report and photographs and enlargements, if any to the other side within the aforesaid period, and the handwriting expert shall be kept present for his evidence in the Tribunal on 18-9-1996. Both the parties be intimated of this order expeditiously. But this shall be entirely the choice of the workman and there is no compulsion that she do get such examination done or do submit such report etc.

6. In view of the above, Mr. M.S.Wagh was appointed as Handwriting and finger print expert. He examined the document and submitted the report dtd. 11-1-97. This report does not appear to be of any use to the workman. Thereafter *vide* order dt. 31-8-99 passed by the then Presiding Officer, the workman was directed to get a second opinion from a second hand writing expert of her choice as desired. The workman obtained the report from Shri. Anil Kumar Mathur, Forensic Examiner of questioned

document, Mr. Mathur submitted his report observing that there is over writing of the figures in the document and hence, no opinion can be expressed about the hand writing, meaning thereby, the report of the second hand writing expert was found to be of no use to the workman. In this view of the matter, the workman moved an application dt. 22-2-2003 before this Tribunal with a prayer summoning Mr. Paresh T. Gajjar, Handwriting Expert of the Bank who was examined as a witness before the Enquiry Officer during the course of domestic enquiry for cross-examination before the Tribunal. This application was allowed by the Tribunal *vide* order dt. 29-7-2003. This order was challenged in the Honourable High Court by the Bank in writ petition No. 2210 of 2003, Central Bank of India vs. Central Bank of India Employees. The writ petition has been allowed by the Honourable High Court *vide* order dt. 30-6-2006 and the order of the Tribunal dtd. 29-7-2003 has been set aside as a result of which the application dt. 27-2-2003 stands dismissed.

7. I have heard the learned counsel for the parties at length and perused the record. I have also perused the original documents which were summoned at the instance of the learned counsel for the workman from the Bank. These documents were perused in presence of the learned counsel for the parties on 12-12-2006. This much is clear on record that the enquiry has been held to be just and fair. This finding has become final. An opportunity was given to the workman to rebut the report of the hand writing expert of Mr. Gajjar who was examined as witness before the Enquiry Officer during the course of enquiry while passing Part-I Award, as quoted above. This opportunity has now been availed of by the workman. There is second opinion of the hand writing expert Mr. Wagh but is of no help. Thereafter, another opportunity has been given to the workman to have the expert of her own choice for which Mr. Mathur was appointed as hand writing expert. His report too is of no help to the workman in any manner. The workman attempted to create some material by summoning the hand writing expert Mr. Gajjar but this attempt has now been foiled by the order of the Honourable High Court dated 30-6-2006 in the aforesaid writ petition. Now the fact remains that the Tribunal has been left with the evidence of Mr. Gajjar only which goes unchallenged and there is no reason to disbelieve Mr. Gajjar. In fact Mr. Gajjar took samples of all the concerned clerks and then concluded that interpolations were being made by workman. In these background I do not find any material on the basis of which a doubt may be created about the report of Mr. Gajjar and on the basis of which it can be held that the Enquiry Officer was not just in arriving at a finding of guilt against the workman. The perusal of the original documents does not help the workman either. It appears to be a calculated strategy whereby new account was opened in June 1983 with a petty cash of Rs.15 only and in the following month of July, 1983 only all the fraudulent transactions have been carried out. The workman had been earlier given a

warning memo but thereafter, the investigation made by the Bank revealed that the interpolations were made by the workman alone which led to the issuance of charge sheet to the workman. The domestic enquiry was conducted in a just and fair manner as has been already held. There was no reason for the Bank to implicate falsely the workman alone and initiate domestic enquiry nor anything could be suggested by the workman in this respect. No doubt, the ledgers were being kept open in the evening hours in bank and anybody could make interpolations in it but it did not help the workman in showing that the interpolations were not being made by her. Every opportunity of defence at every possible stage during course of enquiry and now by this Tribunal has been given to workman. There is nothing to rebut the evidence of the Bank in this regard.

Considering the entire evidence on record, I conclude that the workman has been rightly found guilty for misconduct by the Enquiry Officer. The workman had preferred the departmental appeal and that too resulted in dismissal. The Bank was justified in dismissing the workman in accordance with law.

9. Hence, the action of the Bank in terminating the services of Smt. Rekha I. Mehta w.e.f 30-5-1988 is held to be justified. The workman is not entitled to any relief.

10. An Award is made accordingly.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 2 जनवरी, 2007

का.आ. 236.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब व सिन्ध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-2, चंडीगढ़ के पंचाट (संदर्भ संख्या 710/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-1-2007 को प्राप्त हुआ था।

[सं. एल-12012/108/99-आई आर (बी-II)]
राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 2nd January, 2007

S.O. 236.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.710/2005) of the Central Government Industrial Tribunal-Cum-Labour Court No. 2, Chandigarh has shown in the Annexure, in the Industrial Dispute between the management of Punjab Sind Bank and their workmen, which was received by the Central Government on 2-1-2007.

[No. L-12012/108/99-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II CHANDIGARH

Presiding Officer: Shri Kuldip Singh

CASE I.D. No. 710/2005

Registered on 25-8-2005

Date of Decision 8-12-2006.

Balwinder Singh S/o Shri Bangali Babu Tiwari House
No. 281, Labour Colony, SBCM Abhore

....Petitioner

Versus

Punjab and Sind Bank, The Zonal Manager, PSB, Zonal
Office, Faridkot

....Respondent

APPEARANCE

For the Workman : TEK CHAND SHARMA &
OTHERS, ARS

For the Management : Mr. J.S SATHI, AR

AWARD

The workman is not present. He was not present even on the last date although he was present on 14th March, 2006 when his statement was recorded. He once appeared through Counsel on 10th July, 2006, but did not attend his case on rest of the dates fixed till today. Therefore, he was put *ex-parte* on 9th October, 2006. On that day the statement of witness of the Management was recorded *ex-parte*.

The Govt. of India *vide* their order No.L-12012/108/99-IR(B-II) dated 29th Sep., 1999 referred the following matter for the consideration for this Tribunal :

“Whether the action of the Management of Punjab and. Sind Bank in terminating the services of Shri Balwinder Singh S/o Sh. Sunder Singh without paying him retrenchment compensation is legal and just? If not, to what relief the concerned workman is entitled to and from which date?”

In response to the notice of reference, given by this Tribunal, the workman came and filed his Claim Petition, the Management filed their reply. The workman filed his affidavit and the Management that of one Subhash Sethia, their witness. The workman also appeared in the witness box whereas the statement of witness of the Management was recorded *ex-parte*.

The workman has claimed that he had served the Management as Subordinate Staff member at Abhor, Punjab from 22nd April, 1996 to 4th March, 1998 and performed the duty and the work allotted to him was of permanent nature, but the Management terminated his service on 5th March, 1998, without any notice, inquiry or charge sheet. He was also not paid any compensation. He was not paid the salary for the month of Feb., 1998 and his termination was in violation of Section 25-F of the Act. It is further claimed by him that he was getting salary at the Rate of 1250/- and was denied the regular rate although he had performed the same duty which the regular employee performed; that he had served the Management for a period of more than 240 days. The Management employed fresh hand, but denied him the re-employment. Thus, they violated the provisions of Sections 25-F, G, H & N, besides of Shastri Award.

The Management denied the claim of the workman stating that he was engaged as a daily wager purely on temporary basis. They denied that the workman had served for 240 days or that he was entitled to the protection under the ID Act. It is further stated by them that the engagement of the workman was without following the procedure laid down as his engagement was purely on temporary basis. Referring to the instructions issued by the Management, they claimed that the authority to engage the Peons was taken away and, therefore, the question of adjustment of the workman in the Management Bank did not arise. They prayed for the rejection of the claim of the workman. The Management supported their claim with the affidavits of their witness, who proved the affidavit Exhibit MW-1 as correct. The workman since stopped appearing in the case, therefore, he did not cross examine the witness of the Management, thereby raised no finger against what the witness stated in the affidavit in the statement.

On the part of the workman he claimed that he was appointed by the Management and he served them from 22nd April, 1996 to 4th March, 1998. The Management denied this claim. There is nothing on record to support the claim of the workman that he was engaged as a Peon on 22nd March, 1996 and the Management terminated his services on 4th March, 1998. In his statement, recorded by this Tribunal, he admitted that he was not given any appointment letter; and that he had not applied for the post in writing; that he had gone to the Bank where he was told that there was requirement of a worker. He further stated that he was getting Rs.40 per day as wages. He claimed that he was not paid wages for the period May, 1998. He further claimed that after his disengagement the Management had recruited other persons but did not name any.

From the statement of the workman, it cannot be made out that he had served the Management for 240 days, as is claimed by him. His mere statement is not sufficient

unless there is collaborative evidence to support that claim. Moreover, during his cross examination he admitted that he was not recruited in accordance with the procedure. He stated that he had gone to the Bank and came to know that there was requirement of worker in the Bank. He has also not produced evidence to show that alongwith him two three more persons were engaged. He admitted that he used to be paid after four or seven days and that he was getting Rs.40 as daily wages. Neither in his pleadings nor in his statement, he named anybody who was engaged by the Management after his disengagement. The claim of the workman, therefore, cannot be accepted mere on his saying that he had served the Management for the period he claimed in the statement of the claim and he had, therefore, served the management continuously for 240 days in 12 months preceding the date of his disengagement. His withdrawal from prosecuting the case further and remaining absent, itself shows that the claim he has made was shaky. He also did not make the efforts to get the record of the Management summoned to prove that infact he had served the management for the required period and, therefore, his termination was bad in law.

Considering the facts and circumstances of the case I am of the opinion that there is no evidence to prove; that the management had violated the provisions of law and natural justice in terminating the services of the workman and that the workman infact was disengaged by the management without paying him the retrenchment compensation and other dues. In the circumstances the reference is answered against him and the award is passed. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 2 जनवरी, 2007

का.आ. 237.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, मुम्बई के पंचाट (संदर्भ संख्या 14/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-1-07 को प्राप्त हुआ था।

[सं. एल-12012/194/2003-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 2nd January, 2007

S.O. 237.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14/2004) of the Central Government Industrial Tribunal-Labour Court No. 1, Mumbai as shown in the Annexure in the

Industrial Dispute between the management of Canara Bank and their workman, which was received by the Central Government on 2-1-2007.

[No. L-12012/194/2003-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT : Justice GHANSHYAM Dass,
Presiding Officer

Reference No. CGIT-14 of 2004

Parties :—Employers in relation to the management
of Canara Bank

AND

Their workman

APPEARANCES:

For the Management : Mr. John Peter Devadoss
For the Workman : Mr. Subash Naik Jorge

State : Maharashtra

Mumbai, dated the 5th day of December, 2006

AWARD

1. This is a referesnsce made by the Central Government in exercise of its powers under clause (d) of sub-section 1 of Section 10 of the Industrial Disputes Act 1947 (the Act for short) vide Government of India, Ministry of Labour, New Delhi Order No. L-12012/194/2003-IR (B-II) dated 30-1-2004. The terms of reference given in the schedule are as follows:

“Whether the action of the Management of Canara Bank, Vasco-Da-Gama Branch, Goa in terminating the services of Mrs. Munira H. Bookbinder w.e.f. 23-9-2002 is legal and justified? If not, what relief the workman is entitled for?

2. Mrs. Munira H. Bookbinder (hereinafter referred to as workman) filed her Statement of claim dt.13-3-2004 and alleged that she was working as a daily wage employee with the Bank at its Vasco-da-gama branch since 1995 for cleaning, scavenging and miscellaneous work. She used to work daily from 9.00 AM to 1.00 PM and from 5.00 PM to 7.00 PM. She was paid the wages every month by crediting the wages in her Savings bank account No. 22458 with the Vasco-da-gama Branch of the Bank. She was also paid

bonus every years since 1995 till 2002. The Bank at Vasco-da-gama branch had two premises one at Rajtara Building and another at Julieta Building. Sometimes before the termination of the services of the workman, the Bank ceased to function from Rajtara Building and started functioning only from Julieta Building premises. It was due to computerization. On 23-9-2002 when she went to attend to her duty, she was informed by the Manager of the Bank that her services stood terminated and that she should not report for duty. She was not given one months notice nor she was paid any retrenchment benefits nor principle of “Last Come First Go” was followed. The workman had put in service for more than 240 days in a year prior to her termination. For all these reasons, her termination is illegal. The workman raised the Industrial dispute. The matter came up for hearing before the concerned Conciliation Officer but the talks failed. Hence, this reference by the Central Government.

3. The Bank filed the written statement on 16-8-2004 and submitted that the workman was engaged on daily wage basis as a Coolie for cleaning the premises of Rajtara building for three hours before opening of the business hours of the Bank. The engagement of the workman was purely on daily wage basis and to meet the contingency. The workman was employed in place of one Smt. Neela Honnawarkar on her death who was also working as part time employee in Rajtara building premises; since time was required to fill up the vacancy as per recruitment rules the engagement of the workman was made to meet the contingency. The Bank had to surrender the premises at Rajtara Building in the end of September 2002 for restructuring purpose. Consequently the business was shifted to Julieta building only. For this reason the services of the workman were no more required and she was accordingly not engaged in the service. The payment of wages was made to the workman for the days she worked. There was no employer and employee relationship and hence the petitioner does not come under the definition of workman under the provisions of the Industrial Dispute Act. Hence no retrenchment compensation was payable.

4 The workman filed her affidavit in lieu of her examination in chief. She also examined herself orally. She was cross-examined by the learned representative for the Bank wherein she admitted certain material facts. i.e. It is correct to say that before her employment there was one Neela Honnwarkar who was part time employee and after her death she was given the job. The premises of Rajtara building was surrendered by the Bank to its owner and the work was shifted to Julieta premises only. She was not getting any wages for Sundays though she was paid the wages for Gazetted holidays.

5. The Bank filed the affidavit of Shri Shoru Kashinath Naik Desai, Sr. Manager in lieu of his examination in chief.

He was cross-examined by learned counsel for the workman, wherein he admitted that the workman had worked for 285 days during the period 01-4-98 to 31-3-99, 301 days from 01-4-1999 to 31-3-2000, 303 days from 01-4-2000 to 31-3-2001, 296 days from 01-4-2001 to 31-3-2002 and 156 days from 01-4-2002 to 31-3-2003. The services of the workman were terminated on 23-9-2002. The workman was not issued any notice prior to the termination nor any retrenchment compensation was paid nor any seniority list was prepared to observe the principle of "Last Come First Go" for the reason that the workman was only on daily wages.

5. I have heard Mr. John Peter Management representative for the Bank and the learned counsel for the workman and gone through the record. The written submissions filed by the parties have also been perused.

7. The majority of the facts of this case are not in dispute. It appears to be the admitted position that the workman was engaged by the Bank on daily wages. She was not issued any appointment letter. She was kept in place of Neela Honnawarkar after her death who was also a part time employee. The payment of wages was made to the workman for the days she worked and the same was credited to the Savings account of the Bank. The workman was also paid the yearly bonus. The services were terminated orally on 23-9-2002. No notice prior to termination of the service were issued nor any retrenchment compensation was paid. The necessity of termination of the services arose on account of surrender of Rajtara building and shifting of work to its another branch at Julieta building.

8. The contention of the Bank that there was no relationship of employer and employee is devoid of merit. This contention has got no substance when the employee Munira was employed by the Bank itself for years together though on daily wages. She was not kept for job through contractor. She was employed by the Bank itself. She continued to work with the Bank from 1995 till 2002. Hence, there is no doubt at all in concluding that Smt. Muncera was the workman within the provisions of the Industrial Dispute Act.

9. The appointment of workman was made on account of death of Neela Honnawarkar who was also a part time employee. No rules and regulations were fulfilled by the Bank before the appointment since it was made in accordance with the contingency of the work purely on temporary basis and the payment was made on daily basis. No doubt the payment of wages was credited to Savings Bank Account maintained with the Bank itself and the payment of bonus was also made but that by itself do not benefit the workman in drawing any inference that she may be treated to be a permanent employee of the Bank and be absorbed in service. The termination was necessitated on account of surrender of Bank premises where she was

working. The workman worked more than 240 days in a year prior to her termination as admitted by the Bank witness himself and she was not paid any retrenchment compensation.

10. The Bank referred to the following rulings (i) 1996 I CLR 709 before the Honourable High Court of Calcutta in between Patit Paban Ghosh and Ors vs. Director of Fisheries, West Bengal and Ors., (ii) S.C. Service Law Judgement 2006 (1) 480 in between Secretary, State of Karnataka and others vs. Umadevi (Supreme Court, 1996 (iii) I CLR 912 before the Honourable High Court of Rajasthan in between Satish Kumar Porwa vs. State of Rajasthan and Ors., CA No. 775/1993 (iv) II LLJ (SC) Union of India vs. Rajendra Kumar and (v) 2006 SCC (L&S) 434 MP State Agro Industries Development Corporation Ltd. and another vs. S.C. Pandey. The learned counsel for the workman submitted that in view of the settled legal position in the aforesaid cases, the workman is not entitled to any relief.

11. The Honourable Supreme Court in the case of MP Agro Industries (supra) has held that "only because a temporary employee completes 240 days of continuous service, that by itself will not confer any legal right upon him to be regularized in service. The dictum also lays down that a vacancy is required to be filled up by resorting to procedures known to law i.e. upon fulfilling constitutional requirements as also of regulations governing the corporation in question and further that if an appointment is made contrary to provisions of the status, the same would be void and effect thereof would be that no legal right could be derived by the employee by reason thereof. The Hon'ble Supreme Court held in the above case that a daily wagger does not hold a post as he is not appointed in terms of the provisions of the Act and Rules framed thereunder and therefore he does not derive any legal right".

12. The Hon'ble Supreme Court in the case of Umadevi (supra) has held that Union or State Government has the right to engage persons on daily wage or temporarily for a duration until the work on a particular project is completed but it is not proper for the Courts to direct the absorption in permanent employment of those who have been engaged without following the due process on surrection as envisaged by the Constitutional scheme.

13. The Hon'ble High Court of Calcutta in case of Patit Paban Ghosh (supra) has held that the recent trend of decisions of the Supreme Court is that eligibility and continuance working of howsoever long period should not be permitted to over reach the law and it is therefore, not possible to allow the petitioners prayers for direction to the respondents to regularize/absorb as sought for.

14. The Hon'ble High Court of Rajasthan in the case of Satish Kumar Purva (supra) has held that temporary appointee under temporary scheme is not entitled to any

protection under Section 25 of the Industrial Dispute Act, even if he has completed more than 240 days of service.

15. The learned counsel for the workman has emphasized on the fact that the workman worked with the Bank for more than 240 days in several years as admitted by the Bank witness, referred to above, and hence the termination of the workman is illegal for non-compliance of the mandatory provisions of Section 25 and 25-G of the Act. No ruling has been cited in support of its contention.

16. Keeping in mind the settled legal position referred to above, I feel that the workman is not entitled to any relief in the instant reference for the obvious reason that she does not get any benefit even though she worked for 240 days in a year since she was given the job as a part time employee on daily basis after the death of Neela Honnarkar without following the required rules and procedures for recruitment. She enjoyed the services but to her bad luck the necessity of the service was over on account of surrender of the Rajtara premises by the Bank. The workman could not claim that her termination is illegal for non-issue of notice or non-payment of retrenchment compensation. There is no violation of any of the provision of the Industrial Dispute Act.

17. Hence, I conclude that the action of the Management of Canara Bank Vasco-da-gama branch in terminating the services of the workman is legal and justified. The workman is not entitled to any relief.

18. An Award is made accordingly.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 2 जनवरी, 2007

का.आ. 238.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकाता के पंचाट (संदर्भ संख्या 47/2000/1241) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-1-2007 को प्राप्त हुआ था।

[सं. एल-12011/185/2000-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 2nd January, 2007

S.O. 238.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 47/2000/1241) of the Central Government Industrial Tribunal-Labour Court Kolkata as shown in the Annexure in the

Industrial Dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 2-1-2007.

[No. L-12011/185/2003-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA

Reference No. 47 of 2000/1241

Parties :—Employers in relation to the management
of Punjab National Bank

and

Their workman

PRESENT:

Mr. Justice C. P. Mishra, Presiding Officer

APPEARANCE

On behalf of the Management : Mr. S. Chatterjee,
Manager (HRD)

On behalf of the Workmen : Mr. D. Mukherjee, General
Secretary.

State: West Bengal Industry: Banking

Dated 1st December, 2006

AWARD

By Order No. L-12011/185/2000/IR(B-II) dated 8-11-2000 the Central Government in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Punjab National Bank in (I) not paying 3/4 scale of wages to Shri Indra Pal and Shri Kamal Hela, part time Sweepers and (II) transferring them to the branches of the bank where they are entitled to get only half of the scale wages is legal and justified? If not, to what relief are the workmen entitled?”

2. The present dispute has been referred at the instance of Punjab National Bank Employee's Congress (W.B.) hereinafter to be referred as the union. The case of the union as stated in its statement of claims in short is that S/Shri Indra Pal and Kamal Hela have been working as part time Sweeper on half wages in M.G. Road Branch of the Punjab National Bank since March—April, 1992. They were however transferred to Beliaghata and Paikapara Branch in the same wages illegally as per instruction of SRM Office. It is alleged that the appointment of Sweepers in the Bank on the basis of carpet area and they cannot be transferred to any other branch of the Bank in the same wages. It is stated that the two premises of the Bank at

M.G. Road at ground floor and first floor. The carpet area of these two premises are 3304 sq. ft. and 3016 plus stair cases of approximate 350 sq. ft. respectively which the two Sweepers used to clean since April, 1992 as per appointment letter of erstwhile New Bank of India. According to the union as per Head Office Circular No. 772 (Personnel) dated 17-5-1984 the concerned workman are entitled to 3/4 the wage. It is alleged that the authority transferred the concerned workmen only when the union claimed enhancement of their wage scale whereas the wage scale of other part-time Sweepers was enhanced from time to time in different branches from 1/2 to 3/4 to full time. It is further alleged that the action of the Bank in not granting 3/4th wage scale to the concerned workmen is illegal, malafied collusive and against the principle of natural justice. The union accordingly demanded 3/4th wage scale for them and also for transferring them to M.G. Road Branch.

3. The management in its written statement stated that the present dispute has not been duly and validly espoused as per the provisions of the Industrial Disputes Act, 1947 and accordingly it cannot be termed as an industrial dispute. According to the management posting and deployment of manpower is its exclusive prerogative and thus it is stated that since there were vacancies of part time Sweeper in 1/2 scale wage at Beliaghata and Paikpara Branches within the same city Shri Inder Pal and Shri Kamal Hela respectively have been transferred there and they have already joined their duties the present dispute has become infructuous. Further case of the management is that fixation of wages of Part Time Employees (Sweepers) in the Bank is governed by the settlement dated 7-5-1984 arrived at between the Bank and All India PNB Employees' Federation. In terms of the said settlement sweeping area upto area upto 3300 sq. ft. attracts 1/2 scale wages and since the total area of the Bank premises at M.G. Road Branch was 6320 sq. ft. both the concerned workman were sweeping that area each of the workman were sweeping an area less than 3300 sq. ft. individually. Since the total area of the M.G. Road Branch of the Bank was more than 5000 sq. ft. but less than 8500 sq. ft. in terms of the said settlement one full time Sweeper was required and management therefore decided to post a full-time sweeper there and as a consequence thereof the concerned workman were posted to other branches of the Bank where the sweeping area was commensurate with 1/2 scale wages. Management denied the averments as made in the statement of claims of the workman. Management accordingly prayed that its action in posting the concerned workman at Beliaghata and Paikpara Branches on 1/2 scale wages be held to be legal and justified and the workman be held to be not entitled to any relief.

4. In this case both the parties have examined one witness each, WW-1, Somnath Dutta is the sole witness

on behalf of the workmen. He was working as a Special Assistant in the M.G. Road Branch of the Bank from 1989 to 2001 and he knew the concerned workmen. He has stated that Indra Pal was working on the ground floor and Kamal Hela was working on the first floor including the stair. He has also stated that two Sweepers were engaged there on the basis of restriction about the floor area. He has further stated that after the merger of New Bank of India with the Punjab National Bank on 4th September, 1993 Indra Pal and Kamal Hela worked for an area of 3300 and odd sq. ft. each and as per of the Bank's circular dated 17-05-1984 both of them were entitled to 3/4th scale wages. He has also stated that there is no provision in the Bank for transfer of such Sweepers and that the concerned workman were transferred when they demanded payment of wages of 3/4th rate. In cross-examination he has stated that the restriction of floor area is based on some circulars, but he does not know the date and number of the same. He, however, has agreed with the rationale of the circular/orders in this regard. The witness has further stated that these Sweepers were employees of the New Bank of India and after merger they came under the Punjab National Bank. He does not know of any branch where two sweepers are engaged for sweeping the two different floors of the same office and also the area required to be swept by a full-time Sweeper. He has admitted that the wages of the Sweepers are fixed on the basis of the swept area. He has also admitted that there is provision for transfer of sub-staff in the Bank. The witness has never seen earlier transfer of part-time Sweeper though they are also sub-staff. He does not know of any circular on the basis of which part-time Sweeper can be transferred only on promotion. He has admitted that the total area of the concerned Branch on two floors was 6000 sq. ft. and odd and below 7000 sq. ft. He has further admitted that the circular shows that a sweeper sweeping an area of 3301 sq. ft. to 5000 sq. ft. is entitled to receive 3/4th scale of wage and if the sweeping area is between 2201 sq. ft. to 3300 sq. ft. he is entitled to half scale wages. He also admitted that there is no document excepting the rent bill to show that the swept area of the concerned workman was more than 3300 sq. ft. each.

5. MW-1, Anjan Dutta is the sole witness for the management. He was posted at the concerned Branch of the Bank from July, 1989 to January, 1991 as a Manager. He has stated that at that time there were two Sweepers engaged there and they were paid half scale wages of Class-IV employees. At that time it was a branch of the New Bank of India and the concerned workmen did not raise any objection during that time and after the merger of the said Bank with Punjab National Bank in September, 1993 the employees of the erstwhile New Bank of India were regularised in Punjab National Bank. He has further stated that in course of regularisation the said two Sweepers were transferred to some other branches and a full-time Sweeper

was appointed by the Bank at the concerned Branch according to the specification of the sweepable area. According to the witness in the ground floor the sweepable area was 3200 sq. ft. and it was 3016 sq. ft. at the concerned branch and the wages of part-time Sweepers are determined on the basis of the sweepable area. He has also stated that the two concerned Sweeper were transferred to the branches where the wages payable to them was half of scale wages. In cross-examination the witness has stated that though the floor area of the ground floor of the concerned branch is said to be 3304 sq. ft., the sweepable area is 3200 sq. ft. approximately. He admitted that the concerned two Sweepers were transferred in the year 2000 viz. much after the merger of the two banks. He could not recollect whether for cleaning the extra area the Sweepers were paid Rs. 150 extra. He also did not know if for the two premises, i.e. ground floor and first floor there were two separate agreements with the landlord. He, however, has denied that the concerned Sweepers were entitled to 3/4th of wage scale after merger of the two Banks on the basis of the Circular of the year 1984.

6. On the persual of the aforesaid facts and the reference made regarding the claim of the concerned workmen, it is evident that both of them were admittedly appointed as part-time Sweepers on half wages in M.G. Road Branch, Kolkata since March-April, 1992. It is also evident that they had been paid their wages accordingly for the same. However, they have claimed 3/4th wages since September, 1993 after merger of New Bank of India with Punjab National Bank on the basis of the alleged circular No. 772 dated 17th May, 1984 wherein the wages have been prescribed for different categories of part-time Sweepers as floor area applicable for this purpose. In this connection it is stated that half wage is payable for the floor area upto 3300 sq. ft., 3/4th wage is payable upto 5000 sq. ft. floor area and full wage for the floor area upto 8500 sq. ft. According to the workmen Shri Indra Pal was cleaning ground floor the carpet area of which was 3304 sq. ft. and he was entitled to 3/4th wage scale since September, 1993 in terms of the aforesaid circular dated 17th May, 1984. Similarly, Shri Kamal Hela was cleaning first floor having carpet area of 3600 sq. ft. and as such he is also entitled to 3/4th wage scale in this regard. WW-1, Somnath Dutta the witness on behalf of the workmen has stated that the two Sweepers were engaged on the basis of the floor area. It is admitted by him that these two workmen were paid half scale wages since their appointment and they are also getting the half scale wages even after their transfer from that branch where they are working at present. It is also admitted by him that it is the prerogative of the management to transfer a workmen from one branch to another. So far as the total area of the branch where these two workmen were working at the time of their initial appointment is admitted to have been 6000 sq. ft. and below 7000 sq. ft. No document has been filed in this connection to show the

fact to be otherwise. The management has specifically taken the stand that the aforesaid two workmen were appointed as part-time Sweepers in the M. G. Road Branch and the total area of the premises was 6320 sq.ft. and as per settlement sweeping area upto that limit attracts half scale wages for each of the Sweepers since both the workmen were sweeping that area collectively and less than 3300 sq. ft. individually and as such they had been paid half of scale wages as per rules and as per settlement dated 17th May, 1984 in this regard. Both the parties have thus relied upon terms of the aforesaid settlement which as such governs the relationship between the parties and the appointment letter issued Shri Indra Pal dated 23rd March, 1992 also goes to show that the scale of wages as admissible to them was according to the bipartite settlement only. There is no basis as such for the claim of the workmen to be entitled to get 3/4th scale of wages as there is no such evidence adduced on their behalf to show that they had been cleaning the premises consisting of area of more than 3300 sq. ft. each.

8. So far as the allegation made on behalf of the workmen challenging their transfer from M. G. Road Branch to Beliaghata and Paikpara Branches, it is evident that it is the prerogative of the management to decide where a particular employees in view of the administrative exigencies is to be posted. The transfer as such does not Show that it is a sort of punishment or it has decreased their wages. No doubt the concerned workmen are entitled to the same wages which they had been getting in this connection. Both the concerned workmen admittedly had been working as part-time Sweepers and getting half scale of wages from their earlier branch and they have been transferred to Beliaghata and Paikpara Branches as part-time Sweepers and have been paid the same wages as per their work which is in terms of the settlement dated 17th May, 1984 as well. MW-1, Anjan Dutta the sole witness for the management has categorically stated that both the concerned workmen were engaged in the M. G. Road Branch and they were paid half scale of wages as per their appointment letters in this regard and they have been transferred to Beliaghata and Paikpara Branches on the same half scale of wages as per floor area being cleaned by them at those branches.

9. Considering the aforesaid facts and circumstances it is held that both the concerned workmen appointed as part-time Sweepers are not entitled to 3/4th scale of wages as claimed by them in this regard. Also their transfer to the other branches of the Bank where they are only entitled to half scale wages is quite legal and justified. The concerned workmen accordingly are not entitled to any relief.

The reference is answered accordingly.

Dated, Kolkata,

The 21st December, 2006

C. P. MISHRA, Presiding Officer

नई दिल्ली, 2 जनवरी, 2007

का.आ. 239.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय असनसोल के पंचाट (संदर्भ संख्या 24/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-1-2007 को प्राप्त हुआ था।

[सं. एल-22012/168/1997-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 2nd January, 2007

S.O. 239.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.24/1998) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 2-1-2007.

[No. L-22012/168/1997-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
ASANSOL

PRESENT:

Sri Md. Sarfaraz Khan, Presiding Officer

Reference No. 24 of 1998

PARTIES : Agent, Jhanjra Project of
M/s. E.C. Ltd., Loudoha, Burdwan
Vrs.

Jt. General Secretary,
Colliery Mazdoor Union,
Ukhra, Burdwan ,

REPRESENTATIVES

For the management : Sri P. K. Das, Advocate.

For the Union (Workman) : Sri M. Mukherjee, Advocate.

Industry : Coal

State : West Bengal

Date : 17-11-2006

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/168/97-IR(C-II) dated 16-7-98 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the Management of ECL, Jhanjra Project in dismissing the services of Sh. Sunil Bouri, Tyndal 31/2-11-96 is legal and justified? If not, to what relief is the workman entitled?”

On having received the Order No. L-22012/168/97-IR(C-II) dated 16-7-98 of the above mentioned reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference Case No. 24 of 1998 was registered on 10-08-98 and accordingly an order to

that effect was passed to issue notices to the respective parties through the registered post directing them to appear in the court on the date fixed and file their written statement along with the relevant documents and a list of witnesses in support of their case. Pursuant to the said order notices by the registered post were sent to the parties concerned. Sri M. Mukherjee, Advocate appeared along with the letter of authority duly issued by the union to represent the workman through the union. Likewise Sri P.K.Das, Advocate also appeared along with the letter of authority duly issued by the competent authority of the management to represent the management and prayed for time to file their written statement which was allowed.

From perusal of the record it transpires that the reference is pending since the year 1998 and since then numbers of adjournments and direction at the request of the parties to file their written statement were given but surprising enough till today none of the parties filed their written statement in support of their claims. The record further goes to show that the union has been irregular in taking step and even left taking any interest in this case. It indicates that the union has got no case and does not want to proceed further with the case. As such it is not proper and advisable to keep this old reference pending any more awaiting the suitable step of the union. As such it is hereby

ORDERED

That let a “No Dispute Award” be and the same is passed. Send the copies of the award to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly

MD. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 3 जनवरी, 2007

का.आ. 240.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोच्ची के पंचाट (संदर्भ संख्या 157/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-2007 को प्राप्त हुआ था।

[सं. एल-40012/183/2001-आई आर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 3rd January, 2007

S.O. 240.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.157/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Kochi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 3-1-2007.

[No. L-40012/183/2001-IR (DU)]

SURENDRA SINGH, Desk Officer

**ANNEXURE
IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM LABOUR COURT, ERNAKULAM
PRESENT**

Shri P.L. Norbert, B.A., L.L.B., Presiding Officer
(Tuesday the 12th day of December,
2006/21st Agrayayana, 1928)

I.D. 157/2006

(I.D. 2/2002 of Industrial Tribunal, Kollam)

Workman C. Ananda Bai Amma
Edapathazhiyil Veedu
Kannimel Cherry
Kavanad P.O.
Kollam-673 307

Adv. Shri Vimalan

Management 1. The General Manager,
Telecom M/s. Bharat Sanchar Nigam
Ltd. Kollam-695001
2. The Divisional Engineer (D Tax),
Telecom Telephone Exchange
M/s Bharat Sanchar Nigam Ltd.
Chinnakada Kollam-694 001

Adv. Shri C. S. Ramanathan

AWARD

This is a reference made by Central Government under Section 10(1)(d) of Industrial Disputes Act, 1947 for adjudication. The reference is :—

“Whether the demand of Smt. C. Ananda Bai Amma for reinstatement as Sweeper in the management of Telecommunications (BSNL) w.e.f. 6-10-2000 with full back wages, etc. at par with regular employees is justified? If so, to what relief the worker is entitled?”

2. According to the worker, Smt. C. Ananda Bai Amma, she was a sweeper in BSNL, Kollam. She worked there from 2-3-1998 to 14-3-1999 on daily wage basis without break and from 15-3-1999 to 6-10-1999 on quotation basis. She was paid initially Rs. 60 per day and thereafter Rs. 72 per day. She was made to work even on holidays and Sundays without any payment. On completion of 300 days of continuous service she was asked by the management to submit quotation for work. By that time the worker had attained the status of full-time worker on temporary basis. There was an attempt to deny work to the claimant. Therefore she approached Central Administrative Tribunal for declaration that she was entitled to temporary status on completion of 240 days' work as a sweeper. A status quo order was passed by CAT. Meanwhile the management denied employment to the worker. Hence she filed a contempt petition before CAT. But the management took up a contention before CAT that the worker was engaged only up to 31-7-1999 and the status quo order passed subsequently on 4-10-1999 cannot have any consequence. On the basis of this contention of the management the contempt petition was dismissed. That order was challenged before Hon'ble High Court in O.P. But the O.P. too was dismissed on 31-10-2000, but reserving the right of the worker to seek remedy before appropriate forum. The claimant is a 'workman' coming within the definition of S-2(s) of I.D. Act. The termination is illegal. She is entitled to be reinstated and regularized in service with back wages and other benefits.

3. According to the management there is no employee-employer relationship between the worker and management. She was engaged on contract basis for sweeping and cleaning of Telephone Exchange at Chinnakkada, Kollam from 2-3-1998 to 31-7-1999 at the rate quoted by her on different occasions. It is not correct to say that she was made to work on holidays and Sundays. Since 1985 there is a ban for fresh recruitment of casual labourers for any type of work in the department. In the beginning, the quantum of work was less and hence the work was entrusted on contract basis on oral negotiation. Later, when the quantum of work increased, sealed quotations were invited. The worker has not completed 240 days even on contract basis. She has not acquired any right for employment under management. After 31-7-1999 the worker was not engaged. The records of work were produced before CAT by the management. It was observed by CAT on the basis of the documents produced by the management that the worker was engaged on quotation basis and there was no record to show that she was engaged as casual labourer. This order was challenged before Hon'ble High Court. The worker has not acquired any right whatsoever and is not entitled to any relief.

4. In the light of the above contentions the only point that arises for consideration is:

“whether the termination is legal?”

The evidence consists of oral testimony of WW 1 and documentary evidence of Exts. W1 to 5 on the side of worker and MW1 and Exts. M1 to 6 on the side of management.

5. The Point :

The claimant who was a sweeper in BSNL, Kollam is challenging her termination on the ground that she had completed 240 days as casual worker, but she was terminated without notice or compensation in lieu of notice. According to her she had worked on daily rate basis from 2-3-1998 to 14-3-1999 without break and from 15-3-1999 to 6-10-1999 on quotation basis. Thus, according to her, before she started working on quotation basis she had completed 300 days of continuous work and, at any rate, more than 240 days. According to the management, at no point of time she was working as casual labourer but only as a contract labourer from 2-3-1998 to 31-7-1999. Initially there was an oral arrangement on contract basis to work as sweeper. Later written quotation was obtained. It is also the case of management that there was ban for fresh recruitment of casual labour since 1985. They contend that unless the worker is able to prove that she had completed 240 days of continuous work she is not eligible to claim either temporary status or reinstatement. Both CAT and High Court have found that the worker was engaged only on contract basis and not as a casual labourer. Therefore she has no right for reinstatement.

6. Only one of the quotations dated 15-3-1999 is produced by the management. But the management admits that there were two quotations, submitted on 25-5-1999 and 31-7-1999. This is seen from Ext. M2, a letter written by D.E., Kollam, BSNL to the DGM, Trivandrum, wherein quotations received in the department from different

to the workers, other than regular staff, are recorded in the financial Handbook of Telecom Department (formerly and now BSNL). It is called ACE-2 Register. 13 such registers are produced here. They are Ext. M6 series. They cover the period from 2-3-1998 to 11-3-1999. In other words, these registers cover the period the worker claims to have worked on daily rate basis. The following are the details from Ext. M6 series showing payment for the work done by Smt. Ananda Bai Amma on different dates :

Exts.	Page	Name of Worker	Nature of work	Period	No. of days	Rate per day	Amount Rs.
M6	2	Ananda Bai Amma	Contract basis	2-3-98 to 7-3-98	6	62	360
"	6	"	"	9-3-98 to 14-3-98	6	62	360
"	11	"	"	16-3-98 to 21-3-98	6	62	360
"	23	"	"	23-3-98 to 28-3-98	6	62	360
M6(a)	2	"	"	30-3-98 to 4-4-98	6	62	360
"	6	"	"	6-4-98 to 11-4-98	6	62	360
M6(b)	Nil	"					
M6(c)	7	"	"	1-5-98 to 6-5-98	6	65	390
"	8	"	"	7-5-98 to 13-5-98	7	65	455
"	9	"	"	20-5-98 to 25-5-98	6	65	390
"	12	"	"	26-5-98 to 31-5-98	6	65	390
"	3(17-6-98)	"	Contract basis	1-6-98 to 7-6-98	7	65	455
"	5	"	"	8-6-98 to 14-6-98	7	65	455
"	14	"	"	15-6-98 to 21-6-98	7	65	455
M6(d)	2	"	"	1-7-98 to 6-7-98	6	72	452
"	4	"	"	13-7-98 to 18-7-98	6	72	452
"	8	"	"	25-7-98 to 30-7-98	6	72	452
M6(e)	3	"	"	5-8-98 to 10-8-98	6	72	452
"	4	"	"	11-8-98 to 16-8-98	6	72	452
"	9	"	"	17-8-98 to 22-8-98	6	72	452
"	11	"	"	23-8-98 to 28-8-98	6	72	452
"	15	"	"	29-8-98 to 31-8-98	3	72	452
M6(f)	17	"	"	1-9-98 to 4-9-98	4	72	452
"	4 (26-9-98)	"	"	17-9-98 to 21-9-98	5	72	452
"	5	"	"	22-9-98 to 26-9-98	5	72	452
"	23	"	"	7-10-98 to 12-10-98	6	72	452
M6(g)	6	"	"	19-10-98 to 24-10-98	6	72	452
"	7	"	"	25-10-98 to 30-10-98	6	72	452
"	16	"	"	6-11-98 to 11-11-98	6	72	452
M6(h)	: Nil	"					
M6(i)	: Nil	"					
M6(j)	2(22-1-99)	"	"	4-1-99 to 9-1-99	6	72	452
"	3	"	"	10-1-99 to 15-1-99	6	72	452
"	5	"	"	16-1-99 to 21-1-99	6	72	452
M6(k)	: Nil	"					
M6(l)	1	"	"	4-2-99 to 9-2-99	6	72	452
"	2	"	"	10-2-99 to 15-2-99	6	72	452
"	6	"	"	22-2-99 to 27-2-99	6	72	452
"	7	"	"	28-2-99 to 5-3-99	6	72	452
"	11	"	"	6-3-99 to 11-3-99	6	72	452

213 days

As per Ext. M6 series registers Smt. Ananda Bai Amma has worked 213 days altogether from 2-3-1998 to 14-3-1999. The worker has no quarrel that ACE-2 Register contains details regarding total number of days worked, the period of work and the remuneration paid. But her case is that she had worked as a casual labourer and not on contract basis. She was compelled to submit quotation on 15-3-1999, but not before that. The learned counsel for the worker had objected to the marking of carbon copy of ACE-2 Registers (Ext. M6 series) on the ground that without production of the original, carbon copies are not admissible in evidence. Even though the strict rule of evidence is not applicable to proceedings under I.D. Act, even going by the Law of evidence the documents are admissible in evidence. Section 62 of Indian Evidence Act deals with primary evidence. The relevant portion reads :—

“62. Primary Evidence.

Primary evidence means document itself produced for the inspection of the court.

Explanation 2.— Where a number of documents are all made by one uniform process, as in the case of printing, lithography or photography, each is primary evidence of the contents of the rest; but, where they are all copies of a common original, they are not primary evidence of the contents of the original.”

‘Explanation 2’ is applicable in this case. Carbon copy prepared under one uniform process is primary evidence (2004 Criminal Law Journal 3315 at 3318). Ext. M6 series are carbon copies of ACE-2 Registers and they were written in the normal course of business and are admissible in evidence. As already mentioned they contain details of the work done by the worker. As per Ext. M6 series she was working on contract basis and not on daily wage basis. Thus, Ext. M6 series cuts at the very root of the case of the worker that she was working from 2-3-1998 to 14-3-1999 as casual labourer. Assuming that she was working as a casual labourer, still Ext. M6 series show that she had worked only for 213 days between 2-3-1998 and 14-3-1999. That is not sufficient to claim the benefits u/s 25F of I.D. Act. She has to complete 240 days of continuous service in an year. She admits that from 15-3-1999 to 17-10-1999 she was working on quotation basis. Though she has a case that she had submitted quotation due to compulsion by the management and it was not voluntary there is no evidence to substantiate that contention. Whereas Ext. M6 series show that she was working on contract basis. Thus even if she was a worker from 2-3-1998 to 14-3-1999 since she has not worked for 240 days continuously she is not entitled for the benefit u/s 25F of I.D. Act. Since the evidence is that she was working on contract basis when her contract period came to an end her work also came to an end. There is no question of terminating the service by issuing a notice. Her contention that since S-25F of I.D. Act was not complied, the termination is illegal, cannot stand. Since the

records show that she was working throughout on contract basis she is not even a ‘workman’ within the definition of S-2(s) of the Act.

7. The learned counsel for the management submitted that the worker claiming temporary status and continued employment had approached CAT, which had found that she was engaged only on contract basis and not as casual labourer. The same finding was recorded by the Hon’ble High Court. Hence this court cannot come to a different conclusion. Ext. W1 is a status quo order passed by CAT on 4-10-1999 when the worker had approached that forum for a declaration that she was entitled for temporary status on completion of 240 days of work. The worker thereafter filed a contempt petition on the ground that pending a status quo order her service was terminated on 7-10-2000. Ext. W3 is the order of CAT in the contempt petition. It is mentioned in the order that the management had contended before CAT that the worker was engaged only up to 31-7-99 long before the order of status quo was passed on 4-10-2000. On the basis of that submission of the management the contempt petition was dismissed on 28-6-2000. On the same day a final order was passed in O.A. by CAT. Ext. W2 is the final order. In paras 4 and 5 it is recorded that the worker was engaged on contract basis and not as a casual labourer. Therefore she was not entitled to claim temporary status. The application was thus dismissed. This was challenged before Hon’ble High Court in O.P. and Ext. W4 is the judgement in O.P. It is observed in the judgement that the petitioner had not produced any evidence either before Hon’ble High Court or before CAT to prove that she had completed more than 240 days’ continuous work and CAT had found that she was working on contract basis. Hence the Hon’ble High Court dismissed the writ petition. However, her right to approach an appropriate forum for adjudication of her claim, was reserved. Thus, according to the learned counsel for the worker the Hon’ble High Court has kept open the right of the worker to approach a labour forum to establish her claim. Hence, as per reference, this court is competent to go into the merits to determine the status of the worker. It is true that the Hon’ble High Court has reserved the right of the worker to approach a competent forum to establish her right. Therefore there is no bar in going into the merits of the claim and deciding the status of the worker. But the evidence referred above and especially Ext. M6 series, ACE-2 Registers clearly prove the case of the management that the worker has not completed 240 days of continuous work within a period of one year to claim any right under I.D. Act. They have a further case that the worker had not worked even for a day as a casual labourer, but only as a contract labourer. The case of the management is supported by Ext. M6 series Registers. In either case, whether as casual labourer or as contract labourer, the worker is not eligible for any right under the provisions of I.D. Act. Therefore, her claim must fail.

8. However, the learned counsel for the worker clutching at the last straw in the affidavit of the Divisional Engineer, B.S.N.L, Kollam filed in reply to an application to produce original ACE-2 Registers, contended that the worker was engaged as a casual labourer. The affidavit is dated 19-5-2003. The Divisional Engineer (D Tax), Kollam stated that the worker Smt. Ananda Bai Amma had worked as a sweeper in the Telephone Exchange, Kollam on daily rate from 2-3-1998 to 14-3-1999 and worked on quotation basis from 15-3-1999 to 6-10-1999. He also stated that the original ACE-2 Registers for the period from 1-5-1998 to 31-12-1999 were destroyed as the department, as per rules, need not preserve records beyond 3 years. The Divisional Engineer was not examined. However the affidavit of the Divisional Engineer, Kollam cannot stand against the primary evidence of Ext. M6 series which show that the worker was engaged on contract basis. However, at the risk of repetition I would say that even if the affidavit of the Divisional Engineer is accepted still the period falls short of 240 days. The learned counsel for the management, on the basis of Chapter IX Clause 418 of P&T Manual Vol. II, submitted that the department is allowed to take employment on piece-work basis or contract basis. In piece-work only rate is agreed upon whereas in contract work the rate as well as the quantity of work is agreed upon. The learned counsel referred to the 'Manual' in order to show that the Department was permitted to take service on contract basis. For the reasons stated above, it has to be held that the denial of work after 7-10-1999, as contended by the worker, or 31-7-1999 as contended by the management, is not illegal. She was not entitled to get a notice of termination or compensation in lieu of it. She has not acquired any right whatsoever under I.D. Act. Therefore she is not entitled to be reinstated either. The question of regularization does not at all arise. That apart, the decision in 'Secretary State of Karnataka v. Uma Devi (2006) 4 SCC 1' precludes the worker from claiming any right for regularization.

9. In the result, an award is passed finding that the demand of Smt. Ananda Bai Amma for reinstatement as sweeper is not justified and she is not entitled to any relief. No cost. The award will take effect one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 12th day of December, 2006.

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the Workman:

WW1 - C. Ananda Bai Amma

Witness for the Management:

MW1 - K. Boban

Exhibits for the Workman:

- W1 - Certified copy of interim order dated 4-10-1999 of CAT, Ernakulam Bench in O.A. 1111/99.
- W2 - Certified copy of order dated 28-6-2000 of CAT, Ernakulam Bench in O.A. 1111/99.
- W3 - Certified copy of order dated 28-6-2000 of CAT, Ernakulam Bench in C.P.(C) 41/99 in O.A. 1111/99.
- W4 - Copy of failure of conciliation report dated 30-5-2001 forwarded to Secretary, Ministry of Labour by ALC (C).
- W5 - Certified copy of judgement dated 31-10-2000 of Hon'ble HC of Kerala in O.P. 27812/2000.

Exhibits for the Management:

- M1 - Photostat copy of quotation dated 15-3-1999 submitted by Smt. Ananda Bai Amma.
- M2 - Statement reg. payment of imprest bills of the offices under D.E. (D Tax), BSNL, Kollam.
- M3 series - Photostat copies of Form ACG-17 from 17-3-1998 to 12-3-1999 (22 Nos.).
- M4 - Photostat copies of Form ACE-2 maintained by Sub-Divisional Engineer, DCB Installation, Telephone Exchange, Kollam.
- M5 series - Photostat copies of cash receipts executed by Smt. Ananda Bai Amma (7 Nos.).
- M6 series - ACE-2 Registers for the period 2-3-1998 to 11-3-1999 of BSNL, Kollam.

नई दिल्ली, 4 जनवरी, 2007

का.आ. 241.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 417/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-1-2007 को प्राप्त हुआ था।

[सं. एल-12011/127/2004-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 4th January, 2007

S.O. 241.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 417/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Bank and their workmen, received by the Central Government on 4-1-2007.

[No. L-12011/127/2004-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Tursday, the 30th November, 2006

PRESENT**K. Jayaraman, Presiding Officer****I.D. No. 417/2004**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Bank and their workmen.)

BETWEEN

The General Secretary, I Party/Claimant
Indian Bank Employees' Association

AND

The General Manager, II Party/Management
Indian Bank, H.O. Chennai.

APPEARANCE

For the Claimant M/s. D. Hariparanthaman,
Advocates.

For the Management M/s. T. S. Gopalan &
Co., Advocates.

AWARD

The Central Government, Ministry of Labour *vide* Order No. L-12011/127/2004-IR(B-II) dated 29-09-2004 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

“Whether the action of the management of Indian Bank, Chennai in imposing the punishment of compulsory retirement upon Shri C. Balathandayuthapani, Clerk/shroff, Mutt Street Branch of Indian Bank is legal and justified? If not, what relief the workman is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 417/2004 and notices were issued to both the parties and they have entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner Union in the Claim Statement are briefly as follows:

The Petitioner Union espouses the cause of Sri C. Balathandayuthapani who worked as a clerk/shroff in the Respondent/Bank. He was absorbed in the Respondent/Bank as a clerk/shroff when the Bank of Thanjavur got amalgamated with the Respondent/Bank. The concerned employee was sanctioned staff housing loan of Rs.1,50,000/- by the Respondent/Bank for the

purchase of built house at Thanjavur on 11-11-1994. He was further sanctioned Rs. 25,000 by an order dated 20-1-96. Though the loan was sanctioned to the concerned employee in November, 1994 there was a delay in availing the loan as the seller was dodging the concerned employee in this dispute. The Respondent/Management released of Rs. 35,000 of the loan on 1-6-96. Further the balance amount should have been paid at the time of execution of sale deed. However, without the knowledge of the workman Rs. 36,466 was credited to the account of the seller on 21-9-96. While so, the sale deed was executed only on 7-2-97. The monthly instalments started from December, 1997 and it was paid up to the termination of the services of the concerned workman. While so, the Respondent/Management asked the concerned employee to renew the documents acknowledging the debt in their letter dated 10-4-99 stating that debt due as on 31-3-99 was Rs.1,53,591. For this, the concerned employee has given a letter stating that due as stated in the document as acknowledging the debt was not correct as per his statement of accounts and he has asked to furnish him the statement of account. He further stated that he was willing to acknowledge the debt in Form D11, if the correct amount was mentioned. But the Respondent/Bank caused a lawyer's notice dated 22-5-99 demanding immediate settlement of balance amount of Rs. 1,53,437/- as on 31-3-99. For this, the concerned employee sent a suitable reply dated 7-6-99 through an advocate. But, not satisfied with his reply, the Respondent/Management issued a charge memo dated 2-6-99 alleging that he chose to dodge the execution of renewal document acknowledging the due. The non-execution of renewal document was a defiant attitude and thus, they alleged that the concerned employee has committed a misconduct under clause 19.5(j) of the Bipartite Settlement. Though the concerned employee sent a detailed reply, the Respondent/Management initiated domestic enquiry. But the enquiry was conducted in utter violation of principles of natural justice and the concerned employee was not given reasonable opportunity and hence the enquiry has to be set aside on several grounds. The Enquiry Officer was biased and acted as a representative of the management. The Enquiry Officer refused to mark the documents as defence exhibits. Even though certain documents were demanded for production before enquiry, the said documents were not produced in the enquiry denying him fair opportunity. The Respondent/Management has not examined the Manager at the relevant time on their side. The Enquiry Officer has also not summoned the witness to speak about the matter. The non-examination of the said officer and not producing him on the demand made by the workman would vitiate the enquiry.

Based on the perverse findings, the Disciplinary Authority imposed the punishment of compulsory retirement. Even his appeal to the Appellate Authority was dismissed by an order dated 7-4-2003. The punishment of compulsory retirement based on the findings of the Enquiry Officer is vitiated on several grounds. Requiring clarification by customer before signing the renewal loan document would not constitute misconduct. In any event, the misconduct would not come under clause 19.5(j) of the Bipartite Settlement dated 19-10-66. Even when the Enquiry Officer submitted his report on 20-10-2000 the Disciplinary Authority took about two years time to issue letter dated 2-5-2002 calling for explanation on the findings of the Enquiry Officer. Thus, unexplained delay would vitiate the punishment order. Even the concerned employee read letters dated 30-12-2000 and 22-7-2001 sent expressing his willingness to sign renewal document unconditionally. The Disciplinary Authority after a long lapse of time proposed the punishment of compulsory retirement without considering all these letters. The findings of the Enquiry Officer are cryptic and perverse and he failed to take into the totality of the evidence. In the Respondent/Bank, no staff has give renewal document for staff housing loan account. This fact was not disputed by the Disciplinary Authority. The reason to propose the punishment was that the workman failed to create equitable mortgage when that was not a charge alleged in the charge sheet, the imposition of punishment of compulsory retirement is not fair. Even in a more serious matters, where the staff who sold the property without the knowledge of the bank when the housing loan was outstanding and the staff did not pay the loan balance from the sale proceeds, they were given only the punishment of increment cut. While so, the imposition of punishment of compulsory retirement is harsh and excessive. No preliminary enquiry was conducted before taking disciplinary action in this case. The Respondent/Bank recovered the installments from 3-12-97 until the termination of concerned employee and the balance amount was also adjusted from the terminal benefits. Under such circumstances, the punishment of compulsory retirement is not justified. Besides that the Respondent/Bank filed a civil suit for the recovery of the said amount. The Respondent/Bank has also acted vindictively against the concerned workman. Hence, the punishment is mala fide and amounts to victimisation/unfair labour practice. While the Respondent/Bank did not take any action against Sri P. Soundararajan, the Vendor and Mr. Chidambaram, Branch Manager of Tanjore branch, the Respondent/Bank unjustly took action against the concerned employee. Therefore, the punishment of compulsory retirement is shockingly disproportionate to the charge. Hence, for all these reasons, the Petitioner prays to modify the punishment by reinstating him into service with back wages and other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that the issue referred for adjudication in this case is about justification of compulsory retirement awarded to the concerned workman. The employees of the Respondent/Bank are granted housing loan at concessional rate of interest for which they have to execute demand promissory note for the loan amount and as and by way of security for repayment of the debt and create an equitable mortgage by deposit of title deeds. The concerned employee applied for loan for buying a house property at Thanjavur and it was sanctioned on 20-1-96 and the loan was to be disbursed in instalments. On 1-6-96 the concerned workman executed demand promissory note and a sum of Rs.35,000/- was released towards the loan debiting his loan account and crediting his S.B. Account. On 21-9-96 at the instance of the concerned workman a sum of Rs.39,466/- was released towards the housing loan by crediting the loan account of vendor, Mr. Sundararajan. On 7-2-97 the balance loan amount of Rs.78,534 was released. The sale deed was registered on 7-2-97. Since the full loan has been availed by concerned workman on 7-2-97 and the document was got registered in his name, the concerned employee should have executed the security for repayment of debt by depositing the title deed and created equitable mortgage. But, the concerned workman did not do so and he was evading. The concerned workman was called upon several times to create equitable mortgage but he has not done so. As on 31-3-99 the balance amount outstanding to the loan account was Rs. 1,53,487. But, the concerned workman deliberately disputed the figure and thereby avoided the creation of mortgage and hence, the equitable mortgage cannot be created. On 10-4-99 a reminder was sent to the concerned workman to execute the renewal demand promissory note in Form D 11, but the concerned workman declined to execute the same for which lawyer's notice was issued demanding the repayment of loan amount. On 2-6-99, a show-cause notice was issued to the concerned employee. Even though he gave a reply dated 1-7-99 raising trivial issues and an enquiry was ordered to be conducted against him and he was asked to appear for an enquiry. On 20-10-2000 the Enquiry Officer gave his report holding that the charge against the concerned workman was duly established. After receiving his comments, the Disciplinary Authority issued 2nd show-cause notice proposing the punishment of compulsory retirement and also directing him to appear for personal hearing and after following the formalities and considering his representation on 10-8-2002 the Disciplinary Authority passed orders proposing punishment of compulsory retirement on the concerned workman. The appeal preferred against the order was also rejected by the Appellate Authority on 7-4-2003. Therefore, the punishment of compulsory retirement awarded to the concerned employee is perfectly justified and valid in law and the same should not be interfered with for all or any of the reasons urged in the Claim Statement. The past record of service of the concerned

workman was not free from blemish. The concerned workman was disputing the figures only by reference to the release of these two instalments made in June, 1996 and September, 1996 and he alleged a discrepancy in the statement of account solely with a view to avoid the creation of the equitable mortgage. Enquiry into the charges of concerned employee was conducted strictly conforming to the principles of natural justice. In this case, the fact that the concerned employee has not created mortgage is not in dispute. Therefore, the charge against the domestic enquiry is only an attempt to protect the proceeding. There was no justification for the concerned employee to refuse to execute the documents as demanded by the Respondent/Bank. After having availed the loan, when the concerned workman had not carried out his obligation, thereby impairing the security for the loan, certainly the same would constitute a misconduct. Though the concerned employee alleged that there was a delay in sending Enquiry Officer's report, the delay has not caused any prejudice to the concerned employee and he was not placed under suspension. Since the Enquiry Officer found that there was no justification for his conduct and accordingly held that his conduct was one of defiance warranting punishment. The question in that case is whether the debt would become time barred on account of the refusal on the part of concerned workman to execute the documents, but the questions were whether the concerned workman was not obliged to execute the documents and whether he had deliberately avoided the same and whether his conduct had not impaired the security for the repayment of the debt. Therefore, failure to create a mortgage was very much part of the charge sheet. The cases mentioned by the Petitioner union in the Claim Statement are different. The said employees had repaid the loan and their conduct was not as serious as that of the concerned employee. Preliminary enquiry would arise only when the facts are in controversy. In this case, it is clear that the concerned employee has not executed the document as requested by the Respondent/Bank. Adjustment of balance amount after the termination against the terminal benefits is no ground to view the misconduct leniently. Further, filing of suit cannot be said to be a vindictive action. The concerned employee invited peril by his own acts. The conduct of the concerned employee was highly reprehensible and viewed in that since the punishment cannot be said to be excessive or disproportionate to the charge proved against the concerned workman. The punishment awarded is based on materials and passed on an objective satisfaction of the bank. Further, the bank has lost confidence in the concerned workman. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are—

- (i) "Whether the action of the Respondent/Management in imposing the punishment

of compulsory retirement upon Sri C. Balathandayuthapani is legal and justified?

- (ii) To what relief the concerned workman entitled?"

Point No. 1:

6. The admitted facts are that the concerned employee namely Sri C. Balathandayuthapani was initially appointed as a clerk/shroff in Bank of Thanjavur and he was absorbed in the Respondent/Bank as a clerk/shroof. When the Bank of Thanjavur has got amalgamated with the Respondent/Bank, it was admitted that he was sanctioned staff housing loan of Rs. 1,50,000 for the purchase of a built house at Thanjavur on 11-11-1994. It was released on three instalments. The said sale deed was registered on 7-2-1997 and since the full loan has been availed by the concerned employee, the Respondent/Bank asked him to execute equitable mortgage and also demand promissory note. Though the concerned employee executed demand promissory note, he has not executed the equitable mortgage by deposit of title deeds and when the concerned employee was asked to renew the demand promissory note, the concerned employee disputed the figures and has not executed the renewal of demand promissory note and also equitable mortgage. Subsequently, after the lawyer's notice, action was taken against the concerned employee. The Petitioner union which is espousing the cause of the concerned employee disputed enquiry the findings and also the punishment imposed by the Disciplinary Authority. Both sides have not adduced any oral evidence. On the side of the Petitioner Ex. WI to W17 are marked and on the side of the Respondent Ex. M1 to M14 are marked.

7. Learned counsel for the Petitioner contended that the Enquiry Officer who was appointed to enquire into the charges framed against the Petitioner with regard to non-execution of renewal of documents was biased and acted as a representative of the Respondent/Management. He further argued that the Enquiry Officer restrained the concerned workman that he should not speak on the entire history of the staff housing loan account. But, on the other hand, he has permitted the management witness to depose outside the ambit of the charge. Even though there was no charge about the non-execution of equitable mortgage, the management witnesses had deposed against these facts. Further, the Enquiry Officer refused to mark the letters/documents as defence exhibits. The concerned employee has given a reply/explanation that he was not given the entire amount of Rs. 35,000 on 1-6-96 and he has written a protest letter on 3-6-96, the Enquiry Officer declined to mark as exhibit even this protest letter as exhibit on the side of the concerned employee. Further, when the concerned employee demanded certain documents to be marked on his side and also sought for production of documents, the

Enquiry Officer has not ordered to produce the documents from the side of Respondent/Management and the documents were not produced in the enquiry, thus denied a fair opportunity to the concerned employee. Thus, the biased attitude of the Enquiry Officer has clearly established by his acts. Further, the management has not examined the Branch Manager namely Sri Chidambaram, who was Working as Branch Manager at Easwari Nagar, Thanjavur at the relevant point of time, even when the concerned employee has requested the Enquiry Officer to summon the said person, the Enquiry Officer has not taken any steps to summon him to depose in the enquiry. Thus, the non-examination of the said witness namely Mr. Chidambaram would vitiate the enquiry. Basing on the adverse findings of the Enquiry Officer, the Disciplinary Authority proposed to impose the penalty of compulsory retirement and also imposed the proposed punishment in his order dated 10-8-2002. The Appellate Authority also has without considering the representation made by the concerned employee has dismissed the appeal by an order dated 7-4-2003. Further, learned counsel for the Petitioner attacked the Disciplinary Authority's findings on the ground that requiring clarification by customer before signing the renewal loan document would not constitute misconduct. Even if the management has got any grievance, the management could only proceed against the workman as per the contract and could enforce the same. In fact, in this case, the management did the same by filing a civil suit for recovery of the amount. Under such circumstances, it cannot constitute a misconduct. He further argued that in any event, the misconduct would not come under clause 19.5(j) of the Bipartite Settlement dated 19-10-1966. Clause 19.5(j) is vague and is of general in nature. In this case, the concerned employee did not do any act that was prejudicial to the interest of the bank. There was neither negligence nor gross negligence on the part of the concerned workman involving or likely involving the bank in serious loss. Seeking clarification by a person who availed the loan before signing the renewal document would neither be called as an act prejudicial to the interest of the bank nor it would result in loss or serious loss to the bank. Under such circumstances, it cannot be construed as a misconduct and he relied on the rulings reported in 1984 II LLJ 186 A. L. Kalra Vs. Project & Equipment Corporation of India Ltd., wherein the Supreme Court in a similar case in which an employee of the Respondent/Management had taken advance for purchase for plot of land and acquiring a vehicle and he was charge sheeted on the allegation that he did not utilise the advance for the purpose for which it was given, nor did he refund it and the management has taken action against him and he was removed from service. While considering this case, the Supreme Court has held that "the order of removal passed by the Disciplinary Authority is illegal and invalid because the action is thoroughly arbitrary and violative of Article 14 and the alleged misconduct does not constitute

misconduct within the meaning of 1975 rules. The Enquiry Officer himself had found that punishment was already imposed for the alleged misconduct by withholding the salary and the appellant could not be exposed to double jeopardy." Relying on this decision, the learned counsel for the Petitioner argued that in this case, the Respondent/Bank recovered the instalments from 30-12-97 by way of recovery from his salary and the balance amount was also adjusted from the terminal benefits. While so, the imposition of compulsory retirement is not justifiable.

8. But, as against this, learned counsel for the Respondent contended that the concerned workman was disputing the figures only with reference, to the release of these two instalments made in June, 1996 and September, 1996. Therefore, there is no merit in the complaint of the Petitioner that there was a discrepancy in the account. The alleged discrepancy in the statement of account was made solely with a view to avoid the creation of the equitable mortgage. In this case, the only question before the Enquiry Officer was whether in terms of the sanction order for housing loan availed fully at concessional rate of interest by the concerned workman, he was required to execute a renewal demand promissory note and to create an equitable mortgage by deposit of title deeds and having availed the loan, whether he had deliberately failed to create the said security. In the enquiry, it was conducted strictly conforming to the principles of natural justice. There is no dispute with regard to terms of sanction order and availed of loan and thereby incurred a debt for staff housing loan. With regard to non-execution of document, it is clear that he has not created mortgage as required by the terms and conditions. The only plea of the concerned workman was that he did not agree with the debit balance standing in his staff housing loan account as on 31-3-99 and therefore, he has not executed the demand promissory note. But, his objection was established before the enquiry as deliberately made to avoid the creation of mortgage. It was also false to contend that he was denied reasonable opportunity to defend himself in the enquiry, especially when the concerned workman was examined himself in the enquiry, therefore, the challenge of domestic enquiry is only an attempt to protract the proceedings. It is clearly established in the enquiry that there was no justification for the concerned workman to refuse to execute documents as demanded by the Respondent/Bank. After having availed the loan and after purchasing the house, the concerned workman had not carried out his obligation there by impairing the security for the loan, certainly the same would constitute a misconduct. Though the Petitioner alleged that there was a delay in taking action by the Disciplinary Authority, the delay has not caused any prejudice to the concerned workman, under such circumstances, he cannot dispute the same. Though he alleged in so many words that the enquiry was not conducted in a fair and proper manner, he has not shown any justification in not executing

the renewal document and the Enquiry Officer has clearly found that there was no justification for his conduct and accordingly, held that his conduct was one of defiance warranting punishment. The questions before the Enquiry Officer were whether the concerned workman was not obliged to execute the documents; (ii) whether he had deliberately avoided the same; and (iii) whether his conduct had not impaired the security for the repayment of the debt. In the enquiry, it was clearly found that the concerned workman refused to execute renewal documents and only because of that the Respondent was obliged to file suit, thereby incurring legal expenses for which the suit was also decreed. Therefore, the failure to create a mortgage was very much part of the charge sheet and it is false to contend that there was no charge framed against the Petitioner with regard to non-execution of mortgage. Learned counsel for the Respondent further contended that though under section 11A of the I.D. Act, the Tribunal has got power to interfere with the punishment imposed by domestic enquiry, the punishment imposed cannot be interfered with by this Tribunal except in cases where the punishment is so harsh as to suggest victimisation. Further, Labour Court or Tribunal has come to its own conclusions by giving very cogent reasons in regard to the merits of the misconduct and also in regard to quantum of punishment even in cases where a proper domestic enquiry had been held by the employer. In this case, it is admitted that the concerned employee has deliberately not executed the relevant documents for the loan which he has obtained and the reason for non-execution of renewal documents is flimsy and therefore, the punishment of compulsory retirement awarded to the concerned workman is perfectly right and the same should not be interfered with for all or any of the reasons urged by the Petitioner Union. Further, he argued that no doubt, the Supreme Court in the case of *A.L. KALRA* has come to the conclusion that the order of removal passed by the Disciplinary Authority when an employee has mis-utilised the advance for the purchase of flat obtained from the bank is not legal, but in the subsequent decisions, the Supreme Court has clearly held that the decision made in the case of *A.K. KALRA* is not a precedent and the Court or Tribunal must consider the facts of each and every case and can come to a conclusion whether the action constituted as misconduct or not. In this case, the concerned employee has deliberately not executed the renewal documents and also not executed equitable mortgage as per the terms and conditions and it certainly constitutes a misconduct and the action taken against him for the said misconduct is perfectly right and therefore, the ground urged by the Petitioner union does not call for any interference by this Tribunal. Learned counsel for the Respondent further relied on the rulings reported in 1973 ILPLJ 278 *Workmen of M/s. Firstone Tyre and Rubber Co. of India Pvt. Ltd. Vs. The Management and others*, where in the

Supreme Court has held that “even if a proper enquiry is conducted by an employer and correct findings arrived regarding the misconduct, even though the Tribunal has power to differ from the conclusion arrived at by the management, it has to give very cogent reasons for not accepting the view of the employer.” In this case, there is no material to show that the enquiry was not conducted in a fair and proper manner. Further, it is established by the Respondent/Management that the Petitioner has not given any reason for not executing renewal document and not executing the equitable mortgage and under such circumstances, the misconduct alleged in the charge sheet has been clearly established by the Respondent/Management. Therefore, this Tribunal need not interfere with the punishment imposed by the Respondent/Management.

9. Though I find some force in the contention of the learned counsel for the Respondent/Management, the Respondent advocate has not answered to the question whether the alleged misconduct constitutes a misconduct within the meaning of Clause 19.5(j) of the Bipartite Settlement. It is clearly established that the Respondent/Bank has recovered the instalments as per the terms and conditions. Under such circumstances, I find merely debiting the amount mentioned in the renewal document will not constitute a misconduct. No doubt, the concerned employee has not given a valid reason for non-execution of equitable mortgage but in the charge sheet, no charge has been framed for non-execution of equitable mortgage. On the other hand, a charge was framed only against non-execution of renewal documents and not for non-execution of equitable mortgage. Further, it is admitted from the order of Disciplinary Authority that most of the staff have not executed the equitable mortgage as requested by the terms and conditions. Under such circumstances, when there is no specific misconduct mentioned in clause 19.5(j) of Bipartite Settlement, I am not inclined to accept that the non-execution of renewal document amounts to misconduct that too a grave misconduct. Under such circumstances, I find the imposition of punishment of compulsory retirement for the non-execution of renewal of document is excessive and disproportionate to the charge framed against him. As such, I find this point that the action of the Respondent/Management in imposing the punishment of compulsory retirement on the concerned employee is not legal and justified.

Point No. 2 :

The next point to be decided in this case is to what relief the concerned employee is entitled?

10. In view of my foregoing findings that the non-execution of renewal document cannot be constituted as a grave misconduct and the action taken by the Respondent/Management is not legal and justified, I find the concerned employee is to be reinstated in service. But, with regard to

back wages, I find the concerned employee cannot be said that he has complied with all formalities for obtained the loan. Though his action neither constituted as a misconduct, I find he has not given any valid reason for non-execution of equitable mortgage and non-execution of renewal of document. Having regard to all the aspects of this case, I find the concerned employee is not entitled to back wages as claimed by him. Therefore, I direct the Respondent/Bank to reinstate the concerned employee into service, but without any back wages. No Costs.

11. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 30th November, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:

On either side NONE

Documents Marked :—

For the I Party/Petitioner

Ex.No.	Date	Description
W 1	11-11-94	Xerox copy of the terms & conditions for getting loan
W2	1-1-96	Xerox copy of the letter given by concerned employee
W3	20-1-96	Xerox copy of the loan sanction ticket
W4	7-2-97	Xerox copy of the letter to concerned employee by Branch Manager
W5	19-1-98	Xerox copy of the letter from concerned employee to Branch Manager
W6	24-3-99	Xerox copy of the title of document
W7	19-4-99	Xerox copy of the letter from concerned employee to Branch Manager
W8	6-5-99	Xerox copy of the letter from Kumbakonam branch to Easwari Nagar branch
W9	6-5-99	Xerox copy of the letter from concerned employee to Branch Manager,
W10	1-7-99	Xerox copy of the reply given by concerned employee to the show cause notice
W11	11-12-99	Xerox copy of the letter from concerned employee to Enquiry Officer

W12	18-1-00	Xerox copy of the letter from concerned employee to Enquiry Officer
W13	19-1-00	Xerox copy of the letter from Enquiry Officer to Concerned employee
W14	23-9-02	Xerox copy of the appeal preferred by concerned employee
W15	7-4-03	Xerox copy of the order in appeal.
W16	20-1-00	Xerox copy of the letter from concerned employee to Branch Manager
W17	Nil	Xerox copy of the statement of account.

For the II Party/Management :—

Ex. No.	Date	Description
M 1	2-6-99	Xerox copy of the show cause notice to concerned employee
M2	23-8-99	Xerox copy of the Charge Sheet issued to concerned employee
M3	Nil	Xerox copy of the ledger loan account of concerned workman
M4	Nil	Xerox copy of the enquiry proceedings
M5	24-6-00	Xerox copy of the statement of Presenting Officer
M6	20-10-00	Xerox copy of the findings of Enquiry Officer
M7	1-7-02	Xerox copy of the show cause notice by Disciplinary Authority
M8	10-8-02	Xerox copy of the order of punishment
M9	9-8-02	Xerox copy of the minutes of personal hearing
M10	26-12-02	Xerox copy of the proceedings of personal hearing of Appellate Authority
M11	8-4-03	Xerox copy of the letter from Respondent to concerned employee enclosing order of Appellate Authority
M12	31-3-99	Xerox copy of the Statement of SHL of concerned employee
M13	31-3-99	Xerox copy of the Statement of SHL of concerned employee
M14	6-6-05	Xerox copy of the award passed in I.D.No.324/2004

नई दिल्ली, 4 जनवरी, 2007

का.आ. 242.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार चेन्नई पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या/120/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-1-2007 को प्राप्त हुआ था।

[सं. एल-33011/3/2005-आई आर (बी.-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 4th January, 2007

S.O. 242.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 120/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the management of Chennai Port Trust, and their workmen, which was received by the Central Government on 4-1-2007.

[No. L-33011/3/2005-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 7th December, 2006

Present : K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 120/2005

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Chennai Port Trust and their workmen)

BETWEEN

The General Secretary, I Party/Petitioner
Madras Port United,
Labour Union, Chennai.

And

The Chairman, II Party/Management
Chennai Port Trust,
Chennai.

APPEARANCE

For the Petitioner : M/s. R.P. Panneerselvam,
Advocates.

For the Management : M/s. Arun, Advocates.

AWARD

The Central Government, Ministry of Labour *vide* Order No. L-33011/3/2005-IR(B-II) dated 08-11-2005 has referred

the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :

“Whether the demand of the union not to convert the post of Senior Assistant to Senior Assistant (Works) by the management of Chennai Port Trust is justified? If not, to what relief they are entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 120/2005 and notices were issued to both the parties and they have entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner Union in the Claim Statement are briefly as follows:

Initially the post of clerks appointed by Respondent/Management to carry out the ministerial work in the administrative wing. The basic requisite qualification for the said clerks prescribed as degree and typewriting. As regards the promotional avenue for the above designated clerks are from the post of clerk to the post of Junior Assistant on time bound basis known as grouped promotion. Thereafter, the next avenue of promotion being that of Senior Assistant is by way of selection and then once again the grouped promotion to that of Assistant Superintendent and then to that of Office Superintendent by way of selection. In the Respondent/Management there is another category initially appointed as works clerk to carry out the work in workshop premises of Respondent/Management and the basic qualification for entry into service is only SSLC and most of the appointments being made either on compassionate ground etc. and the promotional avenue open to that category is from works clerk to senior works clerk known as grouped promotion and thereafter Senior Assistant (Works) by way of selection and then Assistant Superintendent (works) once again by selection. The channel of promotion as per statutory rules existing in Respondent/Management. Therefore, both categories namely clerks and works clerks are different in category level, though the scale of pay of the categories being equivalent. But according to the manner of appointment, both the erstwhile posts have different qualification and nature of duties is entirely different. The works clerks categories are exclusively grouped for posting staff in workshops, gate time office work spot in order to carry out the works of posting of workers and related matters, whereas the clerks category are totally clerical and they are termed as ministerial staff whereby there could be no comparison of clerks. However, the Respondent/Management in contravention of statutory rules and regulations is said to have converted ten posts of Senior Assistant to that of Senior Assistant (works) by an unlawful order dated 9-6-2004. Therefore, the conversion is taking away the legitimate expectations and that of accrued rights without any authority and in violation of statutory rules. Aggrieved by the conversion proceedings

of Respondent/Management the individuals belonging to ministerial cadre on 1-7-04 objected, for such conversion, despite the same, the conversion came to be made without any authority of law and in violation of statutory rules. When another four vacancies which had arisen subsequently since November, 2004, it was sought to be filled up from the category of works clerk. Based on the illegal and arbitrary conversion proceeding the Respondent/Management subsequently promoted two senior works clerks as Senior Assistant (Works) in the name of conversion by an order dated 30-6-2004. Aggrieved by that the ministerial cadres made several representations on various occasions, which were of no avail. Therefore, the Petitioner union raised an industrial dispute before Assistant Labour Commissioner (Central) on 24-11-2004 and some of the individuals filed Writ Petition before High Court for remedy by invoking its extraordinary jurisdiction under Article 226 of Indian Constitution. No ministerial staff belonging to clerk categories are posted to workshops and they are only confined to the office alone. On the contrary, the works clerks are inter changeable to suit their convenience and are extended with benefits of regular over, time rest day wages, holiday wages, workshop allowance, incentives etc. and by this inter changeability, the equals are treated as unequals. The Chairman of the Respondent/Management passed an order dated 22-9-2004 to fill up the vacancies in the post of Office Superintendent (in the case of stores department) in all the departments as detailed below, which are lying vacant as on 1-4-2004 subject to availability of eligible employees in the feeder categories as per the manner of appointment of respective posts. It clearly speaks about the eligibility of promotional avenues of the ministerial staff. But the Respondent/Management violated its own previous order and passed order for further promotion for four more senior works clerks as Senior Assistant (works) on 13-8-2005 subject to final orders to be passed by High Court in W.P. Thus, the Respondent/Management purely violated the statutory rules, manner of appointment, Major Ports Act and also Articles 14, 20 and 21 of the Constitution. The Respondent/Management abusing the power with malafide intention in a most arbitrary and discriminatory manner by passing the above conversion order. Hence, for all these reasons, the Petitioner union prays to set aside the impugned proceedings dated 9-6-2004 of the Respondent/Management and direct the Respondent/Management to fill up the available post of Senior Assistants with all eligible candidates as per statutory rules retrospectively with the benefits w.e.f. 9-6-2004.

4. As against this, the Respondent in its Counter Statement contended that the Respondent/Management is a public sector undertaking and having employed more than 8000 employees and also several departments in the Respondent establishment. The Respondent/Management have employed clerks to the various departments to carry

out the clerical works. In respect of the above said clerical post minimum qualification required is SSLC. In the Respondent Chennai Port Trust there is only one category of clerical post and also the scale of pay is same for all the clerks. The clerks were posted in offices and also outside the offices like time office, depending upon the requirement of each place and their nature of duties are same even though they are working in different places. The clerks also transferred from one place to another place. In the clerical category promotion of employees are by way of group promotion i.e. automatic promotion after completion of certain years and secondly, the next higher category by way of selection in each departmentwise. There is a disparity among the clerks while getting the promotion and long time taking for getting the promotion in respect of those who are working outside the office premises within the department. In the above circumstances, in order to reorganise the business and also due to administrative reasons, the Respondent took steps to remove the disparity among the clerical category especially within the departments and issued order proceedings dated 9-6-2004 and the same was challenged by individual employees by way of filing W.P. No. 24100 of 2004 and the same was pending in High Court. In the meantime, challenging the same order, the Petitioner union raised an industrial dispute before Assistant Labour Commissioner (Central) and on the failure of conciliation, the matter was referred to this Tribunal. The Respondent reiterates that there is only one category in the clerical post and the scale of pay, nature of duties are one and the same. It is false to allege that those who are working out side the office are mostly appointed under compassionate ground. The Respondent/Management has got discretionary power and also due to administrative reasons, they have taken the decision only to treat all clerks equally and to give them equal opportunity for their promotion and hence the said decision cannot be challenged by the Petitioner union. Regarding the promotion policy is concerned, it is mainly decided on the administrative reason and also the discretionary power of the management and cannot be questioned or challenged as a matter of right. The above said order passed by the Respondent is purely for the administrative reasons and also to treat all the clerks equally and to give them opportunity to grow in the department and bring without any disparity among the clerks within the department and no malafide intention as alleged by the Petitioner union. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are :—

(i) "Whether the demand of the Petitioner union not to convert the post of Senior Assistant to Senior Assistant (Works) by the Respondent/Management is justified?"

(ii) "To what relief they are entitled?"

Point No. 1:

6. The case of the Petitioner Union is that there are two different categories of Clerks in the Respondent/Management namely Clerks and Works Clerks having different qualifications in feeder categories, manner of appointment and channel of promotions. While so, the Respondent/Management without promoting the eligible Junior Assistants in the Clerks cadre, had promoted six Senior Works Clerks to Senior Assistant in the name of conversion by two promotion orders who are not coming under the manner of appointment or channel of promotion. As against this, the Respondent contended that for the clerical posts in the Respondent/Management the minimum qualification required is SSLC and there is only one category of clerical post and also the scale of pay is same for all the clerks. 'Further, in order to reorganise the business and also due to administrative reasons to remove the disparity among the clerical categories especially within the departments issued an order dated 9-6-2004 for conversion and the Respondent has got power to interchange the post or person and the Petitioner union has no authority to question the power of the Respondent/Management. In these circumstances, the main things to be decided in this case are—

- (i) whether the Respondent/ Management the clerical posts are only one category and the nature of duties is same in the particular category ;
- (ii) whether the Respondent/Management has got power to interchange the posts or persons ; and
- (iii) whether the conversion of posts in clerical category ordered by the II Party / Management can be justified?

We will discuss these points one by one—

7. The first point is whether the clerical post in the Respondent/Management are only one category and the nature of duties is same in the particular category or not ? Though the Respondent/Management contended that there is only one category in the clerical posts, when the Petitioner produced Ex.W7, which the copy of rules in respect of manner of appointments to the posts of Clerks 'and Works Clerks and it was not objected by other side and all the exhibits filed by the Petitioner side were marked by consent. Further, from the office manual it is clear that there are two different clerical categories namely Clerks and Works Clerks and the channel of promotion as per the statutory rules existing in the Respondent/Management and both categories of Clerks and Works Clerks are different in category level though the scale of pay of both the categories are being equivalent. But, according the manner of appointment both these categories of posts are having different qualification and their nature of duties also different. Though the learned counsel for the Respondent

contended that these two clerical posts' minimum qualification required is SSLC and only from the year 2000 the minimum qualification required is graduation, he has not produced any document to show that this required qualification was made only in the year 2000. Not only that according to the office manual, the minimum qualification for the clerks are graduation and also typewriting, on the other hand, with regard to Works Clerks, the minimum qualification is SSLC and no other requirement. In these circumstances, I am not inclined to accept that in the Respondent/Management there is only one category in the clerical post and the nature of duties are one and the same for the particular category. Furthermore, during the minutes of meeting held on 8-12-99 between the union and the management when the conversion of 29 posts of Senior Assistant as Senior Assistant (Works) in Engineering. Department were discussed, the Port Trust Secretary explained that the union wanted all the 29 posts of Senior Assistant (ministerial side) to be converted Senior Assistant (Works) but it was agreed to convert only 13 posts as it will affect the promotional opportunities of Junior Assistants on the ministerial side when they complete their probationary period. Further, the Secretary said that the Chief Engineer has forwarded proposals for converting the 13 resultant vacancies of Works Clerk as Clerks. From this also, it is clear that in the Respondent/Management in the clerical posts there are two different categories and their recruitment, qualification and other things are different from each other.

8. The next thing to be decided in this case is 'whether the Respondent has power to interchange the posts or persons from one category to another?' The Respondent in its Counter Statement alleged that he has got discretionary power and also due to administrative reasons and only to treat all the clerks equally and to give them equal opportunity for promotion, they have taken the decision and the same cannot be challenged by the Petitioner union in any forum. On the other hand, on the side of the Petitioner, it is contended that Respondent/Management has no discretionary power or authority to interchange the cadre made by the statutory rules. Though the Respondent contended that he has got discretion to interchange the category of persons and clerks, they have not produced any document to show that they have got discretionary power. On the other hand, the Petitioner established that promotional chances should be effected particularly based on the statutory rules and regulations framed by the Board of Trustees under power conferred by Section 28 of Major Port Trusts Acts, 1963 and marked Ex. W10—Chennai Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 2004 in which, nowhere it is stated that the Chairman of the Respondent/Management has got discretionary power and can take decision on administrative reasons. It is further argued on behalf of the Petitioner that though the Respondent contended that they have taken the decision only to treat

all the clerks equally and give them equal opportunity for their promotions and there is no *malafide* intention on their part, they have not given any valid reason when the qualification for the two clerical posts are different and when their nature of works are different and they have also not produced any document to show how they have arrived at the decision and for what reason they have taken this decision. He further argued that it is not as if the person who accepts the engagement as works clerk is not aware of the nature of his employment and he accepts the employment with open eyes and it may be true that he is not in a position to bargain not at arm's length and since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But, on that score, it cannot be said that their appointment and recruitment are same. Under such circumstances, when the Respondent has not shown that the Chairman of Respondent/Management has got discretionary power to interchange the posts or persons, it is not valid.

9. I find much force in the contention of the learned counsel for the Petitioner in this regard because even at the time, the first interchange has been effected, the reason given by the Port Trust for conversion of 13 posts in the category of Senior Assistant as Senior Assistant (Works), the union represented that all the available 29 posts in Senior Assistant should be filled up by Senior Assistant the (Works), but up Respondent/Management has considered and stated only 13 posts have to be filled up by Senior Assistant (Works) and all other posts should not be filled the by Senior Assistant (Works) on the ground that it will affect the promotion of Junior Assistants/Clerks. Under such circumstances, the Respondent has not given any valid reason for converting the post of Senior Assistant in the Engineering Department to fill up by Senior Assistant (Works).

10. Again, learned counsel for the Respondent relying on the decision reported in 2002 (2) SCC 333 BALCO EMPLOYEES' UNION Vs. UNION OF INDIA AND OTHERS argued that by restructuring the post; it cannot be said that there is violation of Article 14, 16 and 21 of Constitution of India. While considering the disinvestment of the Govt. policy, the Supreme Court has held it will not contravene any law. Therefore, in any steps to reorganize the business, the Court has no power to interfere. With regard profitability, economy or convenience, the management can reorganize and these matters are to be decided by the employer and not by the Tribunal and therefore, he argued that in such matters, Industrial Tribunal has no power to interfere.

11. But, I am not inclined to accept the contention of the learned counsel for the Respondent because it is a promotional opportunity of one category of people and it was based on the statutory rules and regulations framed by Board of Trustees under Major Brt Trusts 1963 Acts. Under such circumstances, the Respondent/Management

has to establish before this Tribunal that they have got power or authority to interchange the person or post. Since they have not established this fact with satisfactory evidence, I find the I Respondent/ Management has no power authority to or interchange the posts or persons.

12. The next point to be decided in this case is whether the conversion of posts in the clerical category namely Senior Assistant to Senior Assistant (Works) can be justified for the reasons stated by the Respondent/ Management? The Respondent/ Management alleged that the Madras Port Trust Employees Union gave representation to the management for conversion of Senior Assistant into Senior Assistant (Works) and that was considered by the Respondent/Management in the Board Meeting held on 28-8-1998 which was clearly mentioned under Ex.M3, which is copy of internal notes regarding conversion of posts, In Ex.M 1, which is a copy of letter from Madras Port Trust Employees' Union dated 29-6-00, the I Party participated in the minutes of meeting and sought for 13 posts of conversion of ministerial side to Senior Assistant (Works) and the employees union also gave representation as per Ex.M 1 and M11 for conversion of Senior Assistants into Senior Assistants (Works) and considering all these things, the Respondent/Management has accepted the same and this conversion was made only to give proper opportunity to employees who are in clerical category without any discrimination. There is no *malafide* intention on the part of the Respondent/Management and therefore, conversion of posts in clerical category can be justified and it cannot be questioned and it is a *bonafide* one.

13. Though I find, some force in the contention of the Respondent, since as per the channel of promotion both categories namely Clerks and Works Clerks are different, though the scale of pay of both categories are being equivalent, their recruitment, their qualification and nature of duties are different, I find the argument of learned counsel for the Respondent cannot be accepted. Further, according to the Office Manual for Electrical & Mechanical department during 1987 under Ex.W 11, wherein it is mentioned under the heading 'Channel of Promotion', that promotions are effected through a set which has been approved by the Chairman and those who do not come under the channel cannot be promoted to any particular post. When vacancies arise, even though the incumbent may possess the prescribed educational qualification eg. a clerk with B.E. degree cannot be promoted as Assistant Engineer when a vacancy arises in the post of Assistant Engineer, since the channels of both the posts are different. Thus, the channel of promotion clearly stated that promotion should be approved by Chairman and it should be given under In this case, channel of promotion. Respondent/ Management has not produced any specific order of proceedings issued by the Chairman for conversion of posts. Since the Junior Assistant and Senior Works

Clerks are basically belong to two different categories and coming under two different channels, I find such interchange cannot be made without any discussion and without any reason. In this case, I find without any reason and affecting the promotion of Junior Assistants, this interchange has been taken place. Therefore, I find the conversion of post of Senior Assistants to Senior Assistant (Works) by the Respondent / Management is not justified. Thus, I find this point in favour of the Petitioner.

Point No. 2:

The next point to be decided in this case is to what relief the Petitioner is entitled?

14. In view of my foregoing findings that the conversion made by the Respondent/Management converting the post of Senior Assistant to Senior Assistant (Works) is not justified, I direct the Respondent/Management to fill up the post of Senior Assistants with all eligible candidates as per the statutory rules retrospectively with all benefits from 9-6-2004. No costs. 15. Thus, the reference is answered accordingly.

(Dictated to the P.L. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 7th December, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:

On either side :

Documents Marked: NONE

For the I Party/Petitioner:

Ex.No.	Date	Description
W1	30-06-04	Xerox copy of the conversion order of two Senior Works Clerks to Senior Assistants (Works)
W2	22-09-04	Xerox copy of the order of Chairman for filling up of vacancy in the post office superintendent and Senior Assistants.
W3	06-04-05	Xerox copy of the representation given by Ramakrishnan & Others to Chairman for promotion.
W4	03-05-05	Xerox copy of the letter from Respondent to Assistant Labour Commissioner (Central)
W5	13-08-05	Xerox copy of the conversion order of two Senior Works Clerks to Senior Assistants (Works)
W6	09-09-05	Xerox copy of the promotion order of Clerks to Junior Assistants
W7	Nil	Xerox copy of the manner of appointment to the posts of Clerk/Junior Asstt/Senior Asstt/Assistant Superintendent & Office Superintendent.
W8	Nil	Xerox copy of the manner of appointment to the posts of Works Clerk, Senior Works Clerk, Senior Asstt(W) & Asstt. Superintendent (Works)
W9	Nil	Xerox copy of the chart showing promotional avenue from Clerk to

Asstt. Superintendent and Works Clerk to Asstt. Superintendent (Works)

W10	2004	Chennai Port Trust Employees (Recruitment, Seniority & Promotion) Regulations, 2004
W11	1987	Chennai Port Trust E & M Department Office Manual.

For the II Party/Management :—

Ex.No.	Date	Description
M1	29-06-00	Xerox copy of the letter from Petitioner to Respondent With minutes of meeting held on 8-12-99
M2	09-06-00	Xerox copy of the sanction of conversion of posts
M3	Nil	Xerox copy of the internal notes regarding conversion of Posts
M4	28-06-00	Xerox copy of the transfer order issued to staff
M5	11-01-01	Xerox copy of the transfer order issued to staff
M6	08-02-01	Xerox copy of the transfer order issued to staff
M7	24-11-04	Xerox copy of the letter from Petitioner
M8	03-05-05	Xerox copy of the letter from II Party/Management to Assistant Labour Commissioner (Central)
M9	27-07-05	Xerox copy of the letter from Respondent to Govt. of India for conversion of posts
M10	17-08-05	Xerox copy of the letter from Respondent to Govt. of India for conversion of posts
M11	22-01-04	Xerox copy of the letter from I Party to Respondent.
M12	30-01-04	Xerox copy of the internal notes of Respondent regarding Conversion of posts.
M13	25-01-01	Xerox copy of the 12(3) settlement.

नई दिल्ली, 4 जनवरी, 2007

का.आ. 243.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 56/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-1-2007 को प्राप्त हुआ था।

[सं. एल-22012/182/2005-आई आर (सी.-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 4th January, 2007

S.O. 243.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 56/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India, and their workmen, which was received by the Central Government on 04-1-2007.

[No. L-22012/182/2005-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Thursday, the 12th December, 2006

PRESENT: K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 56/2006

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Food Corporation of India and their workmen)

BETWEEN

Sri A. Benny : I Part/Petitioner

And

1. The Senior Regional Manager : II Party/
Food Corporation of India, Management
Regional Office, Chennai.
2. The District Manager
Food Corporation of India
District Office, Chennai

APPEARANCE

For the Petitioner : None

For the Management : Sri M. Imthias, Advocate

AWARD

The Central Government, Ministry of Labour vide Order No.L-220 12/182/2005-IR(C-II) dated 20-7-2006 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

“Whether the action of the management of Food Corporation of India in superannuating Shri A. Benny with effect from 31-5-2001 is legal and justified? If not to what relief the workman is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 56/2006 and notices were issued to both the parties and though notices were issued to the Petitioner, the Petitioner has not appeared before this Court and there was no representation on his behalf and he remained absent and was set ex-parte.

3. The II Party/Management entered appearance through their advocates and filed their memo of objection. The memo of objection filed by the 1st Respondent was adopted by the 2nd Respondent, wherein it is alleged that the Petitioner is a retired worker having Token No. 2102 was employed as Departmental Labour by Food Corporation of India to work at Madras Harbour to handle the shipment of the foodgrains. His employment was controlled by a separate certified standing orders namely Standing Order for workmen employed at Madras Harbour by Food Corporation of India' and as per the said standing orders, the age of superannuation is 58 years. The service condition was structure and other monetary benefits to the departmental labour of Food Corporation of India working at Madras Harbour is on par with workers of Chennai Port Trust and Chennai Dock Labour Board as framed by Ministry of Surface Transport. Though the employees of Food Corporation of India are governed by separate staff regulation, 1971 and the departmental labours engaged to work at Madras Harbour are governed only by the standing orders and they are enjoying the benefits on par with the workers of Dock Labour of Madras Port Trust and they have claimed themselves to be reckoned as port labourers, whenever they want to enjoy the benefits provided to the Dock labourer. Therefore, their present claim that they have to be reckoned as Food Corporation of India employees in terms of Food Corporation of India Staff Regulations, 1971 is not tenable. As per standing orders, the age of superannuation is 58 years for departmental labour and Food Corporation of India has increased the same to 60 years earlier at par with the dock labourers without issuing notice under Section 9A of the Act, since the age of retirement is not one among the eleven conditions set forth in schedule IV to the said Act. When the Chennai Port Trust reduced the superannuation age to 58 years, the Food Corporation of India management has just followed it since the same has been made by the Chennai Port Trust as per gazette notification dated 5-1-2001. Further, even though the gazette notification was dated 5-1-2001, the Food Corporation of India implemented it only w.e.f. 31-5-2001 and the department labour for Madras Harbour for the Food Corporation of India are fully aware of it and they presently raised this dispute belatedly after three, years without any reasonable basis. For departmental labour the age of superannuation was reduced from 60 years to 58 years in the manner it was revised earlier and as per standing order, the superannuation age is only 58 years tills this date and there is no illegality in the Section taken by the Food Corporation of India in this regard. Any how, the concerned workman has not appeared before this Tribunal to substantiate his claim. Therefore, the Respondent prays that the claim may be dismissed with costs.

4. The point for my consideration is —

“To what relief the Petitioner is entitled?”

Point :

5. As I have already pointed out, though the Petitioner raised this dispute with regard to his superannuation declared by the Respondent/Management, he has not appeared before this Court to put forth his claim even though two notices were issued to him. As against this, the Respondent namely Food Corporation of India has stated though the Petitioner who questioned the action taken by the Food Corporation of India for reducing the age of superannuation, he has not come before this Court to put forth his claim. Further, the workmen, employed by Madras Harbour by Food Corporation of India are governed by separate standing orders namely 'Standing Order for workmen employed at Madras Harbour by Food Corporation of India' and in that the age of superannuation is mentioned as 58 years. But, subsequently when the Chennai Port Trust has increased the superannuation age as 60 years, the Food Corporation of India also increased the same to 60 years on par with the Dock Labour Board without issuing notice under Section 9A of the I.D. Act. Similarly, when the Chennai Port Trust has reduced the age of superannuation to 58 years, the Food Corporation of India has also reduced the departmental labourers for Madras Harbour as per Dock Labour Board. He further contended that in the Standing Orders, the age of their superannuation is only 58 years till this date and there is no illegality in this Section taken by the Food Corporation of India in this regard.

6. I find much force in the contention of the learned counsel for the Respondent/Management. As I have already stated though the Petitioner has disputed the action taken by the Food Corporation of India in superannuating him on 31-5-2001, he has not come forward with his claim before this Tribunal to substantiate his claim. As such, I find since the Petitioner has not established his claim, he is not entitled to any relief.

7. Thus, the reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 12th December, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:—

On either side : None

Documents Marked:— : Nil

On either side

नई दिल्ली, 4 जनवरी, 2007

का.आ. 244.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 73/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-1-2007 को प्राप्त हुआ था।

[सं. एल-22012/201/2005-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 4th January, 2007

S.O. 244.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India, and their workmen, which was received by the Central Government on 4-1-2007

[No. L-22012/201/2005-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 12th December, 2006

PRESENT :

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 73/2006

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Food Corporation of India and their workmen).

BETWEEN

Sri T. Trever Lazaro

: I Party/Petitioner

And

1. The Senior Regional Manager, : II Party/Management
Food Corporation of India,
Regional Office, Chennai.

2. The District Manager,
Food Corporation of India,
District Office, Chennai

APPEARANCE

For the Petitioner : None

For the Management : Sri M. Imthias, Advocate.

AWARD

The Central Government, Ministry of Labour vide Order No. L-22012/201/2005-IR (C-II) dated 20-7-2006 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

"Whether the action of the management of Food Corporation of India in superannuating Shri T. Trever Lazaro with effect from 31-5-2001 is legal and justified ? If not to what relief the workman is entitled to?"

2. After the receipt of the reference, it was taken on file as I.D. No. 73/2006 and notices were issued to both the parties and though notices were issued to the Petitioner, the Petitioner has not appeared before this Court and there was no representation on his behalf and he remained absent and was set ex-parte.

3. The II Party/Management entered appearance through their advocates and filed their memo of objection. The memo of objection filed by the 1st Respondent was adopted by the 2nd Respondent, wherein it is alleged that the Petitioner is a retired worker having Token No.2280 was employed as Departmental Labour by Food Corporation of India to work at Madras Harbour to handle the shipment of the foodgrains. His employment was controlled by a separate certified Standing Orders namely 'Standing Order for workmen employed at Madras Harbour by Food Corporation of India' and as per the said standing orders, the age of superannuation is 58 years. The service condition was structure and other monetary benefits to the departmental labour of Food Corporation of India working at Madras Harbour is on par with workers of Chennai Port Trust and Chennai Dock Labour Board as framed by Ministry of Surface Transport. Though the employees of Food Corporation of India are governed by separate staff regulation, 1971 and the departmental labours engaged to work at Madras Harbour are governed only by the standing orders and they are enjoying the benefits on par with the workers of Dock Labour of Madras Port Trust and they have claimed themselves to be reckoned as port labourers, whenever they want to enjoy the benefits provided to the Dock Labourer. Therefore, their present claim that they have to be reckoned as Food Corporation of India employees in terms of Food Corporation of India Staff Regulations, 1971 is not tenable. As per standing orders, the age of superannuation is 58 years for departmental labour and Food Corporation of India has increased the same to 60 years earlier at par with the dock labourers without issuing notice under Section 9A of the Act, since the age of retirement is not one along the eleven conditions set forth in schedule IV to the said Act. When the Chennai Port Trust reduced the superannuation age to 58 years, the Food Corporation of India management has just followed it since the same has been made by the Chennai Port Trust as per gazette notification dated 5-1-2001. Further, even though the gazette notification was dated 5-1-2001, the Food Corporation of India implemented it only w.e.f. 31-5-2001 and the department labour for Madras Harbour for the Food Corporation of India are fully aware of it and they presently raised this dispute belatedly after three years without any reasonable basis. For departmental labour the age of superannuation was reduced from 60 years to 58 years in the manner it was revised earlier and as Per standing order, the superannuation age is only 58 years till this date and there is no illegality in the Section taken by the Food Corporation of India in this regard. Any how, the concerned workman has not appeared before this Tribunal to substantiate his claim. Therefore, the Respondent prays that the claim may be dismissed with costs.

4. The point for my consideration is —

"To what relief the Petitioner is entitled?"

Point :

5. As I have already pointed out, though the Petitioner raised this dispute with regard to his superannuation declared by the Respondent/Management, he has not appeared before this Court to put forth his claim even though two notices were issued to him. As against this, the Respondent namely Food Corporation of India has stated though the Petitioner who questioned the action taken by the Food Corporation of India for reducing the age of superannuation, he has not come before this Court to put forth his claim. Further, the workmen employed by Madras Harbour by Food Corporation of India are governed by separate standing orders namely 'Standing Order for workmen employed at Madras Harbour by Food Corporation of India' and in that the age of superannuation is mentioned as 58 years. But, subsequently when the Chennai Port Trust has increased the superannuation age as 60 years, the Food Corporation of India also increased the same to 60 years on par with the Dock Labour Board without issuing notice under Section 9A of the I. D. Act. Similarly, when the Chennai Port Trust has reduced the age of superannuation to 58 years, the Food Corporation of India has also reduced the departmental labourers for Madras Harbour as per Dock Labour Board. He further contended that in the standing orders, the age of their superannuation is only 58 years till this date and there is no illegality in this Section taken by the Food Corporation of India in this regard.

6. I find much force in the contention of the learned counsel for the Respondent/Management. As I have already stated though the Petitioner has disputed the action taken by the Food Corporation of India in superannuating him on 31-5-2001, he has not come forward with his claim before this Tribunal to substantiate his claim. As such, I find since the Petitioner has not established his claim, he is not entitled to any relief.

7. Thus, the reference is disposed of accordingly.

(Dictated to the P.A. transcribed and typed by him. connected and pronounced by me in the open court on this day the 12th December, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Marked :—

On either side : Nil

नई दिल्ली, 4 जनवरी, 2007

का.आ. 245.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधकों के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सेनाई को संघाट (संवर्धन संख्या 48/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-1-2007 को प्राप्त हुआ था।

[सं. एल-22012/158/2005-आई आर (सी-11)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the January, 2007

S.O. 245.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.No. 48/2006) of the Central Govt. Industrial Tribunal-Gum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Food Corporation of India, Food Corporation of India and their workmen, received by the Central Government on 4-1-2007.

[No. L-22012/158/2005-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 12th December, 2006

Present: K. JAYARAMAN,
Presiding Officer

INDUSTRIAL DISPUTE NO. 48/2006

(In the matter of the dispute for adjudication under clause (d) of sub-Section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Food Corporation of India and their workmen)

BETWEEN

Sri P. Irusan : I Party/Petitioner

AND

1. The Senior Regional Manager, : II Party/Management
Food Corporation of India,
Regional Office, Chennai.

2. The District Manager,
Food Corporation of India,
District Office, Chennai

APPEARANCE:

For the Petitioner : None

For the Management : Sri M. Imthias,
Advocate

AWARD

The Central Government, Ministry of Labour *vide* Order No.L-22012/158/2005-IR(CM-II) dated 20-07-2006 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :-

“Whether the action of the management of Food Corporation of India in superannuating Shri P. Irusan with effect from 31-5-2001 is legal and justified? If not to what relief the workman is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 48/2006 and notices were issued to both the parties and though notices were issued to the Petitioner, the Petitioner has not appeared before this Court and there was no representation on his behalf and he remained absent and was set *ex-parte*.

3. The II Party/Management entered appearance through their advocates and filed their memo of objection. The memo of objection filed by the 1st Respondent was adopted by the 2nd Respondent, wherein it is alleged that the Petitioner is a retired worker having Token No.2046 was employed as Departmental Labour by Food Corporation of India to work at Madras Harbour to handle the shipment of the food grains. His employment was controlled by a separate certified standing orders namely 'Standing Order for workmen employed at Madras Harbour by Food Corporation of India' and as per the said standing orders, the age of superannuation is 58 years. The service condition was structure and other monetary benefits to the departmental labour of Food Corporation of India working at Madras Harbour is on par with workers of Chennai Port Trust and Chennai Dock Labour Board as framed by Ministry of Surface Transport. Though the employees of Food Corporation of India are Governed by separate staff regulation, 1971 and the departmental labours engaged to work at Madras Harbour are governed only by the standing orders and they are enjoying the benefits on par with the workers of Dock Labour of Madras Port Trust and they have claimed themselves to be reckoned as port labourers, whenever they want to enjoy the benefits provided to the Dock labourer. Therefore, their present claim that they have to be reckoned as Food Corporation of India employees in terms of Food Corporation of India Staff Regulations, 1971 is not tenable. As per standing orders, the age of superannuation is 58 years for departmental labour and Food Corporation of India has increased the same to 60 years earlier at par with the dock labourers without issuing notice under section 9A of the Act, since the age of retirement is not one among the eleven conditions set forth in schedule IV to the said Act. When the Chennai Port Trust reduced the superannuation age to 58 years, the Food Corporation of India management has just followed it since the same has been made by the Chennai Port Trust as per gazette notification dated 5-1-2001. Further, even though the gazette notification was dated 5-1-2001, the Food Corporation of India implemented it only w.e.f. 31-5-2001 and the department labour for Madras Harbour for the Food Corporation of India are fully aware of it and they presently raised this dispute belatedly after three years without any reasonable basis. For departmental labour the age of superannuation was reduced from 60 years to 58 years in the manner it was revised earlier and as per standing order, the superannuation age is only 58 years till this date and there is no illegality in the section taken by the Food Corporation of India in this regard. Any how, the concerned workman has not appeared before this Tribunal to substantiate his claim. Therefore, the Respondent prays that the claim may be dismissed with costs.

4. The point for my consideration is -

“To what relief the Petitioner is entitled?”

Point:-

5. As I have already pointed out, though the Petitioner raised this dispute with regard to his superannuation declared by the Respondent/ Management, he has not appeared before this Court to put forth his claim even though two notices were issued to him. As against this, the Respondent namely Food Corporation of India has stated though the Petitioner who questioned the action taken by the Food Corporation of India for reducing the age of superannuation, he has not come before this Court to put forth his claim. Further, the workmen employed by Madras Harbour by Food Corporation of India are governed by separate standing orders namely 'Standing Order for workmen employed at Madras Harbour by Food Corporation of India' and in that the age of superannuation is mentioned as 58 years. But, subsequently when the Chennai Port Trust has increased the superannuation age as 60 years, the Food Corporation of India also increased the same to 60 years on par with the Dock Labour Board without issuing notice under section 9A of the I.D. Act. Similarly, when the Chennai Port Trust has reduced the age of superannuation to 58 years, the Food Corporation of India has also reduced the departmental labourers for Madras Harbour as per Dock Labour Board. He further contended that in the standing orders, the age of their superannuation is only 58 years till this date and there is no illegality in this section taken by the Food Corporation of India in this regard.

6. I find much force in the contention of the learned counsel for the Respondent/Management. As I have already stated though the Petitioner has disputed the action taken by the Food Corporation of India in superannuating him on 31-5-2001, he has not come forward with his claim before this Tribunal to substantiate his claim. As such, I find since the Petitioner has not established his claim, he is not entitled to any relief.

7. Thus, the reference is disposed of accordingly.

(Dictated to the P. A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 12th December, 2006)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :-

On either side : None

Documents Marked :-

On either side : Nil

नई दिल्ली, 4 जनवरी, 2007.

का.आ. 246.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेवेली लिग्नाइट कॉर्पोरेशन लि. के प्रबंधन के संबंध में नियोजकों और उनके

कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 78/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-1-2007 को प्राप्त हुआ था।

[सं. एल-22012/360/2004-आई आर (सी एम-II)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 4th January, 2007

S.O. 246.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 78/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Neyveli Lignite Corporation Limited, and their workmen, received by the Central Government on 4-1-2007.

[No. L-22012/360/2004-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI**

Friday, the 8th December, 2006

Present: K. JAYARAMAN,
Presiding Officer

INDUSTRIAL DISPUTE NO.78/2005

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Food Corporation of India and their workmen)

BETWEEN

Sri E. Rathinasabapathy : I Party/Petitioner

AND

The Director (Personnel) : II Party/Management
Neyveli Lignite Corporation Ltd.
Neyveli.

APPEARANCE:

For the Petitioner : M/s. A. R. Suresh,
J. Muthukumaran,
Advocates

For the Management : M/s: N. A. K. Sarma,
Advocates

AWARD

The Central Government, Ministry of Labour vide Order No.L-22012/360/2004-IR(CM-II) dated 17-8-2005 has

referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

“Whether the action of the management of Neyveli Lignite Corporation Ltd., Neyveli in withholding the payment of wage revision arrears for the extended period of service, rendered i.e. from 1-1-1995 to 31-8-1995 to Sri E. Rathinasabapathy is legal and justified? If not, to what relief the workman is entitled?

2. After the receipt of the reference, it was taken on file as I.D. No. 78/2005 and notices were issued to both the parties and they have entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner Sri E. Rathinasabapathy joined the services of Respondent/Management as unskilled during 1957 and subsequently he has been promoted and posted as Assistant Inspector of security branch and retired from service on 31-12-94. The Respondent/Management namely Neyveli Lignite Corporation Ltd. is being governed by rules framed by Department of Public Enterprises / Government of India, any circular issued by Government of India invariably applicable ipso facto to all Public Sector Undertaking including NLC. At the time of joining the Petitioner has given a certificate obtained by his father from the school authorities to NLC and in the certificate the date of birth of the Petitioner has been recorded as 19-12-1936 instead of 10-4-1941. Though the Petitioner has made several representations to school authorities as well as to the Respondent NLC, they have not corrected the date of birth of the Petitioner. The Petitioner approached the Judicial Magistrate Court at Cuddalore and the Magistrate Court ordered to issue a fresh certificate as requested by the Petitioner to the Cuddalore municipal office. After obtaining the same, the Petitioner has produced a fresh birth certificate to the NLC. While issuing the continuation order, the Corporation has not issued any conditional offer but simply permitted the Petitioner to continue in service even after 31-12-1994. In the mean time, wage revision which was due from 1-1-92 was ordered to be paid by 12(3) settlement to employee for those who are on the rolls of the corporation as on 31-12-91. Since the Petitioner was permitted to work by the Respondent, he is eligible for wage revision also in which period, he was on the rolls of corporation. The Petitioner has been paid wages, but not wage revision arrears during the continuation period from 1-1-95 to 1-9-95. It is learnt from the counter filed by the Respondent/ Management before labour authorities that they have gone on appeal against the order issued by Judicial Magistrate and they have obtained an order in their favour and therefore, they have relieved him from the job. Since the Petitioner worked during

the period from 1-1-94 to 1-9-95 for which period he has been paid pre-revised wages and as per 12(3) settlement, the Petitioner is eligible for revised wages. Therefore, action of denying the revised wages by the Respondent/ Management arbitrary, unethical and completely shirking their responsibility. Hence, for all these reasons, the Petitioner prays this Tribunal to pass an award for wage revision arrears from 1-1-95 to 1-9-95 and other consequential relief.

4. But, as against this, the Respondent in its Counter Statement alleged that the Petitioner joined the Respondent/Corporation casual labour and as was subsequently regularised w.e.f. 4.9.59 and at the time of joining duty he had produced the record sheet obtained from the Higher Elementary School, Pudupettai, Panruti which showed his date of birth as 19-12-36 and based on the same his date of birth was entered in his service book as 19-12-1936. According to his recorded date of birth and as per provisions of certified standing orders governing his services, he was to retire from services of II Party/ Management on superannuation on 31.12.94. However, at the verge of his retirement, the Petitioner filed a civil suit in Sub Court, Cuddalore in O.S.No. 3/94 against the II Party/ Management challenging the above date of birth entry and sought correction of his date of birth as 10-4-41 and obtained a decree in his favour on 23-12-94 i.e. a week before the original date of superannuation. In view of the decree passed by the Court in the above suit, without admitting the correctness of the said decree, the Petitioner was permitted to continue in service and on appeal, filed by the II Party/Management before District Court, the said decree was set aside by the District Court, Cuddalore in A.S.No.9/95 by a decree dated 31-8-95. Consequently, the Petitioner was relieved from the services of Respondent/ Management w.e.f. 1-9-1995 forenoon. The second appeal in S.A.No.1331/95 preferred by Petitioner before the High Court was dismissed by the Hon'ble High Court on 27-11-1995. Therefore, his continuation in service beyond the actual date of his attaining the age of superannuation namely 31-12-94 does not give him any right to demand any monetary or other service benefits. The Petitioner has already been paid all terminal benefits namely gratuity, bonus etc. legitimately due to him up to the date of his actual superannuation i.e. 31-12-94 and he has not made any protest about the same. In this case, the Petitioner has neither been dismissed nor discharged nor retrenched from the service of the Corporation but he retired from services of the II Party /Management on attaining the age of superannuation w.e.f. 31-12-94. Therefore, the present reference is not maintainable since it does not constitute an industrial dispute in terms of Section 2(k) read with Section 2(s) of the Act. Further, as on 19-9-2003 when the Petitioner raised the dispute before the conciliation officer as well as on 17-8-2005 the Petitioner was not in the employment of the II Party/Management. He has not been

dismissed, discharged or retrenched and the present claim/dispute is not as a consequence thereof and the Petitioner is not a workman for the purpose of I.D. Act either as on 19-9-03 or as on 17-8-05 nor his case was even properly espoused. The claim is to be rejected on the ground delay and laches as well. Admittedly, the Petitioner was retired on 31-12-94 from the services of Respondent/Management and he raised the dispute only on 19-9-2003 after a lapse of 8 ½ years. There is no justifiable reason for such delay in making the claim as such, the claim deserves to be rejected. The Petitioner is not entitled to any benefit for the services rendered by him in the Corporation for the period 1-1-95 to 31.8.95. The Petitioner has no legal right to remain in service of II Party/Management beyond 31-12-94. He was allowed to remain in service by virtue of trial Court order dated 23-12-94 which order has been, found to be bad by Appellate Court. Therefore, he is not entitled to any pay & allowances or benefits as if he had continued in service. He is not entitled to be treated in service beyond 31-12-94. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. Again, the Petitioner in his rejoinder contended that the Petitioner was allowed to retire on the forenoon of 1-9-95 but he has given terminal benefits upto, 31-12-94 and his services were not taken into consideration for any purpose. Further, there is a policy in the Respondent/Management to award next promotion for retiring employees, who have completed more than 50% of five years of service in the feeder category. As per the above norms, the Petitioner ought to have been promoted as security superintendent at the time of retirement. The Petitioner raised an dispute on 10-7-97 before Assistant Labour Commissioner (Central) and the same was acknowledged by the office on 16-7-97. But, he was not given any reason or reply. Therefore, he has again made a representation before Assistant Labour Commissioner (Central) and the matter was referred to this Tribunal for adjudication. In these circumstances, the dispute is in time and cannot be contended as time barred. Hence, the higher pay which is due from 1-1-92 has to be paid to him since he is demanding only his due legitimate wages and not any ex-gratia from the Respondent. Hence, he prays an award may be passed in his favour.

6. In these circumstances, the points for my consideration are—

- (i) "Whether the action of the Respondent/ Bank in withholding the payment of wage revision arrears for the extended period of service rendered by the Petitioner from 1-1-95 to 31-8-95 is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1 :-

7. In this case, the Petitioner examined himself as WW 1 and marked 13 documents as Ex. W1 to W13. On the

side of the Respondent/Management, Senior Personnel Manager in Security & Fire department of Respondent/Management Mr. G.Bujjaiah was examined as MW 1 and four documents were marked as Ex. M1 to M4. It is an admitted fact of both sides that the Petitioner entered into the services of Respondent/Management as casual labour and he was subsequently regularised on 4-9-1959 and on the particulars given by the Petitioner, the service register was opened and his date of birth was mentioned as 19-12-1936 based on the record sheet obtained by the Petitioner from Higher Elementary school, Pudupettai. At the verge of retirement, i.e. in the last month of 1994, the Petitioner has obtained an order from Civil Court and due to this he has not made to retire on 31-12-1994 and permitted to continue in service. At the same time, the Respondent/Management has preferred an appeal against the Civil Court order namely Sub-Court, Cuddalore and the appeal was allowed and the lower Court's order was set aside in A.S.No. 9 /95 on 31-8-1995. Consequently, the Petitioner was relieved from service of the Respondent/ Management w.e.f. 1-9-95 forenoon. It is also admitted that as per the wage revision entered into between the Respondent/Management and workers union under section 12(3) settlement was given effect to the Petitioner and he has received wage revision till 31-12-1994. This dispute was raised by the Petitioner for wage revision from 1.1.95 to 31-9-95 which period, he was permitted to continue in service as per the orders of Civil Court.

8. The Respondent/ Management has disputed the claim of the Petitioner on several grounds. The first ground is that this will not constitute as industrial dispute in terms of Section 2(k) read with Section 2(s) of the Act. Learned Counsel for the Respondent further relied on the rulings reported in 2003 II LLJ 231 THIRUAPPTUR CO-OPERATIVE SUGAR MILLS LTD. Vs. S. SIVALINGAM wherein the dispute has been raised in Civil Court with regard to retrenchment and the Civil Court has granted a temporary injunction. Against that order, the Respondent/Management has filed a Civil Revision petition before the High Court, in which the High Court has held that "Civil Court had Jurisdiction to try the suit of the employee as it related to matters other than covered by Section 2A of the I.D. Act." He also relied on the decision of Supreme Court reported in 1961 II LLJ 436 Bombay Union of Journalists Vs. HINDU wherein the Supreme Court has held "Of course, where the dispute concerns body of workers as a whole or to a section thereof, it is an industrial dispute. It is precisely for this reason that Section 2A was inserted by Amendment Act 35 of 1965. It says where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman any dispute or difference between that workman and his employer connected with or arising out of such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute, notwithstanding that no other

workman nor any union of workmen is a party to the dispute. By virtue of this provision, the scope of concept of industrial dispute has been widened which now embraces not only Section 2K but also Section 2A. Section 2A however, covers only cases of discharge, dismissal, retrenchment or termination otherwise of the services of individual workmen and not other matters which means that to give an employee. If a workman is reduced in a rank pursuant to a domestic enquiry, the dispute raised by him does not become an industrial dispute within the meaning of Section 2A. However, if the union or body of workmen espouses his cause, it does become an industrial dispute. In all such cases, the remedy is only in a Civil Court or by ways of arbitration according to law, if the parties so choose. The machinery provided by I.D. Act for resolution of disputes (in short Sections 10 to 12) does not apply to such a dispute." Relying on this decision, learned counsel for the Respondent contended that in this case, dispute was not raised for dismissal or retrenchment or discharge of workman and it was also not espoused by any union. The Petitioner was superannuated on 31-12-94. Though he continued to be in service from 1-1-95 to 1-9-95, it is only as per the orders of Civil Court. He has also received wages for that period and this industrial dispute is raised only for the revised wages during that period, which according to the Respondent/Management, he is not entitled. Any how, this is not an industrial dispute in terms of Section 2K read with Section 2(s) of the ID Act, therefore, it is not maintainable.

9. But, as against this, on behalf of the Petitioner, it is contended that the arrears of wage is also an industrial dispute and he is entitled to claim before this forum.

10. But, I find there is no point in the contention of the learned counsel for the Petitioner, as this contention is not valid in law. It is not an industrial dispute and it is not maintainable before this Court.

11. Then again, learned counsel for the Respondent contended that normally the Petitioner was to be superannuated on 31-12-1994 and only due to the Civil Court's order, he was permitted to continue in service and as per Appellate Court's order, he has been relieved from the post w.e.f. 1-9-1995 (FN). Though he stated that he has raised the dispute on 19-9-2003, on 19-9-2003 when the Petitioner raised the dispute before the labour authorities as well as on 17-8-2005 when the order of reference was made, he was not in employment, as such, he is not a workman for the purpose of ID Act and hence, it is not maintainable.

12. Though I find some force in the contention, since I find that this dispute is not properly espoused and it is not maintainable, I am not giving any finding with regard to this.

13. Then again, learned counsel for the Respondent contended that the claim is to be rejected on the ground of delay and laches on the part of the Petitioner. He argued that the Petitioner retired on 31-12-1994 from the services of II Party/Management and he raised the present dispute only on 19-9-2003 after a lapse of about 8½ years. There is no justifiable reason for such delay in making this claim and as such, the claim deserves to be rejected on this ground also.

14. But, as against this, learned counsel for the Petitioner contended that he has raised the dispute on 10-7-97 before the Assistant Labour Commissioner (Central) and it was acknowledged by the office on 16-7-1997, but he has not received any reply from the labour authorities and therefore, he, again made a representation in the year 2003 and the matter was referred to this Tribunal for adjudication. Therefore, it cannot be said that there was a delay and it cannot be said as time barred.

15. But, here again, I find there is no point in the contention of the Petitioner because he has not produced any document to show that he has raised the dispute in the year 1997 that too three years after the date of superannuation. Again, he has not stated any justifiable reason for the delay of 8½ years. Therefore, I find much force in the contention of the learned counsel for the Respondent that the claim deserves to be rejected on account of delay (8½ years) and laches on the part of the Petitioner.

16. Learned counsel for the Respondent further contended that even assuming without conceding that he is entitled to raise the dispute, the Petitioner was permitted to continue in service even after the date of superannuation i.e. 31.12.94 (1-1-95 to 1-9-95 forenoon) it is only because of the order passed by the Civil Court in injunction and during this period, he was paid wages at the rate prevailing at that point of time and in view of the Appellate Court's orders, the Petitioner was relieved from the services of Respondent/Management on 1-9-95 and therefore, continuation in service beyond the actual date of his attaining the age of superannuation w.e.f. 31-12-94 does not give him any right to demand any monetary or any other service benefits. The trial Court order in O.S.No.3/94 of the Sub-Court, Cuddalore, which order has been found to be bad by the Appellate Court in the second appeal No.1331/95, whereby the Petitioner has no legal right to remain in the services of the Respondent/Management beyond 31-12-94. Even though the Corporation was entitled to take steps to recover the pay and allowances disbursed from 1-1-95 to 1-9-95, out of grace the II Party/Management has not recovered the said amount. Therefore, it cannot be said that the Petitioner is entitled to treat the period from 1-1-95 to 31-8-95 as services rendered under the Respondent/Management. Therefore, he is not entitled for

revised wages for the period from 1-9-95 to 31-8-95. I find much force in the contention of the learned counsel for the Petitioner.

17. But, as against this, on behalf of the Petitioner it is contended that the Petitioner was allowed to retire on 1-9-95 and he was given terminal benefits upto 31-12-94 only and his services upto 1-9-95 were not taken into consideration for any purpose. Since the wage revision has retrospective effect from 1-1-1992 in pursuance of the settlement dated 26-8-95 at that time, the Petitioner was in service upto 31-08-1995 and even assuming that the Petitioner was relieved on 31-12-1994, he is entitled for the same. The Respondent has not objected to retain the Petitioner in service before the Sub-Court or prayed that he is not eligible for wages to the service rendered for the extended period. Further, the Petitioner was not informed by the Respondent that he is not eligible for higher wages or prevailing wages about the settlement due in court. Hence, he is entitled to receive higher wages in which period he has worked in Respondent corporation and refusing to give higher wages for that period is arbitrary and illegal.

18. But, as I have already stated since the continuation of service after superannuation i.e. 31-12-1994 is only because of Civil Court's order in injunction and the said order has been subsequently reversed by the Appellate Court, I find he is not entitled to claim any wages or revised wages during that period. Any how, he has received the wages and was not collected from the Petitioner by the Respondent. As such, I find this point that the action of the Respondent/Management in withholding the payment of wage revision arrears for the extended period of service rendered from 1-1-95 to 31-8-95 is legal and justified.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled ?

19. In view of my foregoing findings, I find the Petitioner is not entitled to any relief. No Costs.

20. Thus, the reference is answered accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 8th December, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the Petitioner WW1 Sri E. Rathina Sabapathy
For the Respondent MW1 Sri G. Bujjaiah

Documents Marked:

For the I Party/Petitioner:

Ex. No.	Date	Description
W1	18-8-72	Xerox copy of the conduct certificate.

W2	24-08-89	Xerox copy of the order in Cr. MP. No. 1810/89.
W3	26-09-89	Xerox copy of the birth certificate.
W4	31-12-91	Xerox copy of the certificate
W5	23-12-94	Xerox copy of the judgement in O.S. No. 3/93.
W6	29-12-94	Xerox copy of the letter from Senior law Officer to Chief Security Officer of Respondent/Management.
W7	30-12-94	Xerox copy of the representation given by petitioner.
W8	Nil	Xerox copy of the service certificate
W9	Nil	Xerox copy of the representation
W10	16-04-96	Xerox copy of the Proceedings of Chief General Manager.
W11	27-3-04	Xerox copy of the letter from II Party/Management to Assistant Labour Commissioner (Central).
W12	20-07-04	Xerox copy of the minutes of conciliation proceedings.
W13	16-04-96	Xerox copy of the Circular of Chief General Manager to All heads of units of Respondent/Management regarding promotion to higher post at the time of superannuation.

For the II Party/Management :—

Ex. No.	Date	Description
M1	31-08-95	Xerox copy of the judgement in A.S. No. 9/95
M2	27-11-95	Xerox copy of the judgement in Second Appeal No. 1331 of 1995
M3	01-09-95	Xerox copy of the proceedings in respect of revision of Pay scales under settlement
M4	19-09-03	Xerox copy of the letter from individual to Assistant Labour Commissioner (Central) for revised benefits.

नई दिल्ली, 4 जनवरी, 2007

का.आ. 247.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 6/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-1-2007 को प्राप्त हुआ था।

[सं. एल-22012/68/2002-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 4th January, 2007

S.O. 247.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 6/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfields Limited, Kanhan Area, and their workman, which was received by the Central Government on 4-1-2007.

[No. L-22012/68/2002-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR.

Case No. NGP/06/2003

Date 15-12-2006.

PETITIONER : Shri Lalbahadur Ganesh Durai

Party No. 1 Through the General Secretary, R. K. K. M. S. [INTUC], P. O Chandametta, Dist. Chhindwara (M.P.)

VERSUS

RESPONDENT : The Chief General Manager,

Party No. 2 Western Coalfields Limited, Kanhan Area, PO Dungaria, Dist. Chhindwara.

AWARD

Dated : 15th December, 2006

1. The Central Government after satisfying the existence of disputes between Shri Lalbahadur Ganesh Durai, through The General Secretary, R. K. K. M. S. [INTUC], P. O. Chandametta, Dist. Chhindwara [M.P.], Party No.1 and The Chief General Manager, Western Coalfields Limited, Kanhan Area, PO Dungaria, Dist. Chhindwara, Party No. 2 referred the same for adjudication to this Tribunal vide its Letter No. L-22012/68/2002-IR(C-II) Dt. 04-10-2002 under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947) with the following schedule.

2. "Whether the action of the General Manager, Kanhan Area of Western Coalfields Limited P. O. Dungaria, Dist. Chhindwara [MP] in not providing compensate appointment to Sh. Lalbahadur S/o Late Sh. Ganesh Durai, Tub Loader, Nandan Mine No.1 is justified? If not, to what relief is the said dependant of the workman entitled?"

3. The dispute came for the hearing before the Tribunal today on 15-12-2006. On behalf of the management its counsel is present. Nobody appeared for the petitioner. The perusal of record indicates that on 9-9-2005 the

management had submitted original settlement in from H Signed by both the parties. From that time nobody appeared for the petitioner. Today the counsel for the management has requested to pass an Award in the terms of compromise. It seems that the settlement is signed by both the parties and there are no reasons to deny the request of passing award in terms of it. Accordingly the award is passed in the terms of the settlement, the terms are as under :—

- (1) It is agreed by the Union and workman that the Case No. CGIT/NGP/06/2003 pending before the Hon'ble CGIT Nagpur will be withdrawn as the dispute has been resolved amicably.
- (2) This agreement will not be a precedent in future and has been agreed by the union that such similar case will not be raised in future by quoting this as an example.
- (3) This is full final settlement in respect of the employee concerned. Neither workman concerned himself nor through any union shall raise any dispute in regard to this settlement at any level statutory or non-statutory or non-statutory judicial or non-judicial.

4. Both the parties agreed in the above terms and I hold that the settlement is proper and legal. Hence the award is passed in the terms of settlement that now their remain no dispute between the worker Shri Lalbahadur Ganesh Durai and the management i.e. both the parties.

Hence this award.

Dt. 15-12-06

A. N. YADAV, Presiding Officer

नई दिल्ली, 4 जनवरी, 2007

का.आ. 248.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय भू-वैज्ञानिक सर्वेक्षण के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जोधपुर के पंचाट (संदर्भ संख्या 1/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-1-2007 को प्राप्त हुआ था।

[सं. एल-42012/180/2002-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 4th January, 2007

S.O. 248.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1/2003) of the Industrial Tribunal Jodhpur as shown in the Annexure in the Industrial Dispute between the management of Geological Survey of India, and their workman, which was received by the Central Government on 4-1-2007.

[No. L-42012/180/2002-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

अनुबंध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय,
जोधपुर

पीठासीन अधिकारी :—श्री पुष्पेन्द्रसिंह हाड़ा, आर.एच.जे.एस.
औद्योगिक विवाद (केन्द्रीय) सं. :-1/2003 श्री कुम्भाराम पुत्र गंगाराम
सियोल, निवासी गांव पिलवाए, तहसील फलोदी, जिला जोधपुर।

....प्राथी

बनाम

निदेशक वैधन एवं कार्यालय अध्यक्ष, भारतीय भू-वैज्ञानिक सर्वेक्षण
पश्चिमी क्षेत्र, झालाना डूंगरी 15-16 जयपुर

....अप्राथी

रेफरेन्स अन्तर्गत धारा 10 औ. वि. अधिनियम, 1947

उपस्थिति :-

- (1) श्री जितेन्द्र गहलोत, प्रतिनिधि प्राथी
- (2) श्री एस.के. व्यास, प्रतिनिधि अप्राथी

अवधि

दिनांक 21-9-2006

1. भारत सरकार ने अपनी अधिसूचना क्रमांक
एल.-42012/180/2002-आई.आर.(सी-II) दिनांक 18-12-2002
के द्वारा निम्न विवाद अन्तर्गत धारा 10 औद्योगिक विवाद अधिनियम,
1947 के तहत इस न्यायालय को रेफर किया गया है :

“क्या निदेशक, वैधन एवं कार्यालय अध्यक्ष, भारतीय भू-वैज्ञानिक
सर्वेक्षण, पश्चिमी क्षेत्र, झालाना डूंगरी, 15-16 जयपुर (राज.)
द्वारा श्री कुम्भाराम पुत्र गंगाराम सियोल, हैल्पर के पद से
दिनांक 16-1-2000 से सेवा से पृथक करना उचित एवं वैध
है? यदि नहीं, तो कर्मकार क्या राहत पाने का हकदार है?”

2. प्राथी ने अपना मांग-पत्र इस आशय का प्रस्तुत किया कि
अप्राथी ने प्राथी को अकुशल हैल्पर के रिक्त पद पर 44 रुपये
प्रतिदिन के हिसाब से 16-3-99 को नियोजित किया तथा 16-1-2000
को बिना छंटनी मुआवजा, बिना नोटिस, नोटिस के एवज में वेतन दिये
सेवा से पृथक कर दिया, सेवापृथकता का कोई कारण नहीं बताया।
प्राथी को सेवा से पृथक करने से पूर्व नियम 27 केन्द्रीय औद्योगिक
विवाद नियम के तहत वरिष्ठता सूची प्रकाशित नहीं की गई।
भू-वैज्ञानिक संरक्षण औद्योगिक की परिभाषा में आता है, प्राथी जहाँ
कार्य करता था वहाँ पर सोने व चांदी के ताम्बा पीतल का सर्वे किया
जा रहा था ऐसी स्थिति में अप्राथी उद्योग है। प्राथी को सेवापृथक
करने के बाद अप्राथी द्वारा नये आदमियों को हैल्पर के रूप में रखा।
प्राथी ने खण्डपीठ रिट याचिका सं. 3472/2001 माननीय उच्च न्यायालय
में पेश की जो माननीय उच्च न्यायालय द्वारा यह कहकर खारिज कर
दी कि अधिनियम 1947 के तहत प्रस्तुत किये जाने वाले विवाद
केन्द्रीय प्रशासनिक अधिकरण में प्रस्तुत नहीं किये जा सकते। प्राथी
ने सेवा में पुनर्स्थापन व बैंक वैजज दिलाये जाने की मांग की है।

3. अप्राथी की ओर से जवाब में कहा गया कि प्राथी अप्राथी
के पास सर्वे में ही नहीं था, प्राथी ने पूर्व में एक ओ.ए.161/2000
केन्द्रीय प्रशासनिक अधिकरण, जोधपुर में प्रस्तुत की थी जो 11-7-2001

को खारिज कर दी गई जिससे व्यक्ति होकर प्राथी ने माननीय उच्च
न्यायालय में डी.वी. सिविल रिट प्रस्तुत की जो भी दिनांक 4-10-2001
को खारिज कर दी गई, प्राथी ने अपनी ओ.ए. व रिट में जो वाक्यांश दर्ज
किये उनमें कहीं भी यह अंकित नहीं किया कि निदेशक वैधन एवं
कार्यालय अध्यक्ष, भारतीय भू-वैज्ञानिक सर्वेक्षण पश्चिमी क्षेत्र झालाना
डूंगरी, जयपुर द्वारा हैल्पर पद से 16-1-2000 को सेवा से पृथक किया,
अप्राथी द्वारा प्राथी को कभी भी नियोजित नहीं किया गया अतः सेवा से
पृथक करने का प्रश्न ही उत्पन्न नहीं होता, प्राथी ने मांग पत्र में यह
कहीं अंकित नहीं किया है कि उसके द्वारा कहीं पर व किसके अधीन
क्या कार्य किया, अप्राथी विभाग उद्योग की परिभाषा में नहीं आता है।

4. मांग-पत्र के समर्थन में प्राथी ने स्वयं का शपथ-पत्र प्रस्तुत
किया जिस पर अप्राथी प्रतिनिधि द्वारा जिरह की गई तथा अप्राथी की
ओर से आर.के. सबसेना का शपथ-पत्र प्रस्तुत किया गया जिस पर
प्राथी प्रतिनिधि द्वारा जिरह की गई।

5. दोनों पक्षों के प्रतिनिधिगण की बहस सुनी गई। पत्रावली
का अवलोकन किया गया।

6. यह सिद्ध करने का भार प्राथी पर था कि उसने सेवामुक्ति
की बताई गई दिनांक 16-1-2000 से पूर्व के एक कलेण्डर वर्ष में
240 दिन लगातार कार्य किया गया था। इस संबंध में प्राथी ने अपनी
साक्ष्य में यह कहा है कि अप्राथी ने प्राथी को अकुशल हैल्पर के
रिक्त पद पर 44 रुपये प्रतिदिन के हिसाब से 16-1-2000 को बिना
छंटनी मुआवजा अदा किये, व बिना नोटिस वेतन के सेवा से पृथक
कर दिया, कोई वरिष्ठता सूची प्रकाशित नहीं की, प्राथी को सेवा से
पृथक करने के बाद भी नये आदमियों को हैल्पर के रूप में लगाया
गया। प्राथी ने मौखिक साक्ष्य के अलावा दस्तावेजी साक्ष्य में एक्युटेन्स
रोल की प्रतियां प्रस्तुत की हैं।

7. इस सम्बन्ध में अप्राथी द्वारा प्रथम आपत्ति यह ली गई है
कि प्राथी अप्राथी के अधीन नियोजित नहीं था जब कि एक्युटेन्स रोल
से स्पष्ट है कि वह डीलर इन्वार्ज यूनिट नम्बर-363 के अधीन था व
चूँकि उसने केन्द्रीय प्रशासनिक ट्रिब्यूनल में दायर याचिका ओ.ए.
161/2000 में रेस्पोंडेण्ट सं. 5 व 6 को उसको नियोजक माना है ऐसी
स्थिति में यह नहीं माना जा सकता कि प्राथी अप्राथी के अधीन
नियोजक रहा। इसके विपरीत प्राथी की ओर से यह तर्क लिया गया है
कि ओ.ए. संख्या 161/2000 में रेस्पोंडेण्ट सं. 5 व 6 जिन्हें बताया
गया है वे दोनों ही अप्राथी के अधीन कार्यरत हैं व अप्राथी उनका
विभागाध्यक्ष है।

8. प्राथी की ओर से जो एक्युटेन्स रोल प्रस्तुत किये गये हैं
उनमें दिनांक 15-8-99 व 16-9-99 के एक्युटेन्स रोल डीलर इन्वार्ज
की यूनिट संख्या-363 के अधीन कार्य किये गये, एक्युटेन्स रोल की
प्रतियां हैं जिससे यह स्पष्ट है कि प्राथी ने अप्राथी विभाग ज्योसोजिकल
सर्वे ऑफ इण्डिया की यूनिट संख्या 363 के डीलर इन्वार्ज के अधीन
दिनांक 16-3-99 से 15-9-99 तक कार्य किया। इसके बाद की जो
एक्युटेन्स रोल की प्रतियां प्राथी द्वारा प्रस्तुत की गई हैं वे सभी डीलर
इन्वार्ज यूनिट संख्या-340 के अधीन प्राथी के कार्यरत होने से संबंधित
हैं। इनके अनुसार प्राथी ने 16-9-99 से 15-1-2000 तक डीलर
इन्वार्ज यूनिट संख्या-340 के अधीन कैबुअल लेबर के रूप में दैनिक
वेतन भोगी श्रमिक के रूप में कार्य किया। इस संबंध में माननीय
राजस्थान उच्च न्यायालय के हाल ही के निर्णय 2005 (2) एल.एल.

जे. 87 कुरेशवर मण्डल बनाम राजस्थान राज्य में डी.बी. निर्णय में यह निर्णित किया है कि जहाँ प्रार्थी द्वारा ए.ई.एन. गुलाबपुरा व ए.ई.एन. शाहपुरा के यहाँ आलोच्य अवधि में काम किया गया था अतः इन दोनों के अधीन की गई कार्य अवधि को एक साथ 240 दिन की गणना के उद्देश्य के लिए नहीं मिलाया जा सकता। माननीय राज. उच्च न्यायालय के इस डी. बी. निर्णय द्वारा इस संबंध में इस प्रकार निर्णित किया गया है:—

“Section 25-F does not operate unless at one establishment under the same employer the workman has completed the requisite period of continuous service so as to avail the benefit of said provisions. Apparently, if two places of employer where the appellant has sought employment on the availability of the work are not treated as part of the same establishment, the appellant is not entitled to any relief.”

यद्यपि प्रार्थी ने अपनी साक्ष्य में अलग-अलग यूनिट में काम करना नहीं बताया है परन्तु चूँकि ऐसा उसके द्वारा प्रस्तुत दस्तावेजों से स्पष्ट है अतः यह तथ्य सिद्ध होना पाया जाता है कि उसने आलोच्य अवधि में दिनांक 16-3-99 से 15-9-99 तक डीलर इन्वार्ज यूनिट संख्या-363 के अधीन व 16-9-99 से 15-1-2000 तक डीलर इन्वार्ज यूनिट संख्या-340 के अधीन कार्य किया। प्रार्थी ने इस प्रकार का कोई तथ्य नहीं बताया है कि उसने अन्डरग्राउन्ड माइन में काम किया हो। उक्त तथ्यों के अनुसार दोनों ही यूनिट डीलर इन्वार्ज में से किसी के अधीन भी प्रार्थी द्वारा 240 दिन या इससे अधिक कार्य नहीं किया गया है। ऐसी स्थिति में प्रार्थी धारा 25-एफ, 25-जी, 25-एच औद्योगिक विवाद अधिनियम, 1947 के उल्लंघन के आधार पर प्रार्थी किसी अनुतोष का अधिकारी नहीं माना जा सकता।

9. उपरोक्त विवेचन के अनुसार इस रेफरेन्स का उत्तर इस अवार्ड की टर्म्स में निम्न प्रकार दिया जाता है।

10. प्रार्थी को 16-1-2000 से सेवा से पृथक् करना उचित एवं वैध था। प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

11. इस अवार्ड को प्रकाशनार्थ केन्द्रीय सरकार को प्रेषित किया जाये।

12. यह अवार्ड आज दिनांक 21-9-2006 को खुले न्यायालय में सुनाया गया।

पुष्पेन्द्र सिंह हाड़ा, न्यायाधीश

नई दिल्ली, 4 जनवरी, 2007

का.आ. 249.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 43/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-1-2007 को प्राप्त हुआ था।

[सं. एल-22012/204/2003-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 4th January, 2007

S.O. 249.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/2004) of the Central Government Industrial-Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfields Limited, and their workmen, received by the Central Government on 04-01-2007.

[No. L-22012/204/2003-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR:

Case No. NGP/43/2004

Date 12-12-2006

Petitioner : Shri Ganapath s/o Gendoo, through

Party No. 1 Gen. Secretary, Rashtriya Koyla Khadan
Mazdoor Sangh [INTUC], Post
Chandametta, Chhindwara.

Versus

Respondent: The Chief General Manager,

Party No. 2 Western Coalfields Limited, Pench Area
Post—Parasia, Chhindwara

AWARD

[Date : 12th December, 2006]

1. The Central Government after satisfying the existence of disputes between Shri Ganapath s/o Gendoo, through Gen. Secretary, Rashtriya Koyla Khadan Mazdoor Sangh [INTUC], Post Chandametta, Chhindwara] Party No. 1 and The Chief General Manager, Western Coalfields Limited, Pench Area Post—Parasia, Chhindwara Party No. 2 referred the same for adjudication to this Tribunal vide its Letter No. L-22012/204/2003-IR (C-II) Dt. 24-03-2004 under clause (d) of sub section (1) and sub Section (2A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947) with the following schedule.

2. “Whether the action of the management of The Chief General Manager, Western Coalfields Limited, Pench Area Post—Parasia, Chhindwara, in terminating the services of Shri Ganapath s/o Gendoo, Ex. DPR Rawanwara Khas Colliery with effect from 25-06-2001 is legal, proper and justified? If not to what relief the workman is entitled to?”

3. The dispute came up for hearing on 12-12-2006 today the case is fixed for filing Statement of Claim by the petitioner. No body is present for the petitioner neither he himself was present in person. The management appeared and it has filed a Written Statement. The perusal of record indicates that right from the receipt of the award the petitioner never appeared and submitted his Statement of Claim in spite of the notice. Thus it indicates that he is not interested in prosecuting the case and the dispute is simply remains pending for filing his Statement of Claim. In such

circumstances the dispute is disposed of for default of the petitioner. Its stands as dismissed and it is answered that the act of the management was legal and justified and the petitioner is not at all entitled for the relief claimed by him.

Hence this award.

Date 12-12-2006

A. N. YADAV, Presiding Officer

नई दिल्ली, 4 जनवरी, 2007

का.आ. 250.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 46/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-01-2007 को प्राप्त हुआ था।

[सं. एल-22012/156/2005-आई आर (सी एम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 4th January, 2007

S.O. 250.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 46/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India and their workmen, received by the Central Government on 04-01-2007.

[No. L-22012/156/2005-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 12th December, 2006

Present : K. JAYARAMAN,
Presiding Officer

Industrial Dispute No. 46/2006

In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Food Corporation of India and their workmen.

BETWEEN

Sri G. Ramalingam : I Party/Petitioner

AND

1. The Senior Regional Manager, : II Party/Management
Food Corporation of India,
Regional Office, Chennai.

2. The District Manager,
Food Corporation of India,
District Office, Chennai

APPEARANCES :

For the Petitioner : None

For the Management : Sri M. Imthias, Advocate

AWARD

1. The Central Government, Ministry of Labour vide Order No.L-22012/156/2005-IR(CM-II) dated 20-07-2006 has referred the dispute to this Tribunal for adjudication: The Schedule mentioned dispute is as follows :—

“Whether the action of the management of Food Corporation of India in superannuating Shri G. Ramalingam with effect from 31-5-2001 is legal and justified? If not to what relief the workman is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 46/2006 and notices were issued to both the parties and though notices were issued to the Petitioner, the Petitioner has not appeared before this Court and there was no representation on his behalf and he remained absent and was set ex-parte.

3. The II Party/Management entered appearance through their advocates and filed their memo of objection. The memo of objection filed by the 1st Respondent was adopted by the 2nd Respondent, wherein it is alleged that the Petitioner is a retired worker having Token No.2388 was employed as Departmental Labour by Food Corporation of India to work at Madras Harbour to handle the shipment of the food-grains. His employment was controlled by a separate certified standing orders namely ‘Standing Order for workmen employed at Madras Harbour by Food Corporation of India’ and as per the said standing orders, the age of superannuation is 58 years. The service condition was structure and other monetary benefits to the departmental labour of Food Corporation of India working at Madras Harbour is on par with workers of Chennai Port Trust and Chennai Dock Labour Board as framed by Ministry of Surface Transport. Though the employees of Food Corporation of India are governed by Separate Staff Regulations, 1971 and the departmental labourers engaged to work at Madras Harbour are governed only by the standing orders and they are enjoying the benefits on par with the workers of Dock Labour of Madras Port Trust and they have claimed themselves to be reckoned as port labourers, whenever they want to enjoy the benefits provided to the Dock labourer. Therefore, their present claim that they have to be reckoned as Food Corporation of India employees in terms of Food Corporation of India Staff Regulations, 1971 is not tenable. As per standing orders, the age of superannuation is 58 years for departmental labourer and Food Corporation of India has increased the same to 60 years earlier at par with the dock labourers without issuing notice under section 9A of the Act, since the age of retirement is not one among the eleven conditions set forth in Schedule IV to the said Act. When the Chennai Port Trust reduced the superannuation age to 58 years, the Food Corporation of India management has just followed it since the same has been made by the Chennai Port Trust as per Gazette notification dated 5-1-2001. Further, even though the Gazette notification was dated 5-1-2001, the Food Corporation of India implemented it only w.e.f. 31-5-2001 and the department labourer for Madras Harbour for the Food Corporation of India are fully aware of it and they presently raised this dispute belatedly

after three years without any reasonable basis. For departmental labour the age of superannuation was reduced from 60 years to 58 years in the manner it was revised earlier and as per standing order, the superannuation age is only 58 years till this date and there is no illegality in the section taken by the Food Corporation of India in this regard. Any how, the concerned workman has not appeared before this Tribunal to substantiate his claim. Therefore the Respondent prays that the claim may be dismissed with costs.

4. The point for my consideration is—

"To what relief the Petitioner is entitled?"

Point:

5. As I have already pointed out, though the Petitioner raised this dispute with regard to his superannuation declared by the Respondent/Management, he has not appeared before this Court to put forth his claim even though two notices were issued to him. As against this, the Respondent namely Food Corporation of India has stated though the Petitioner who questioned the action taken by the Food Corporation of India for reducing the age of superannuation, he has not come before this Court to put forth his claim. Further, the workmen employed by Madras Harbour by Food Corporation of India are governed by separate standing orders namely 'Standing Order for workmen employed at Madras Harbour by Food Corporation of India' and in that the age of superannuation is mentioned as 58 years. But, subsequently when the Chennai Port Trust has increased the superannuation age as 60 years, the Food Corporation of India also increased the same to 60 years on par with the Dock Labour Board without issuing notice under section 9A of the I.D. Act. Similarly, when the Chennai Port Trust has reduced the age of superannuation to 58 years, the Food Corporation of India has also reduced the departmental labourers for Madras Harbour as per Dock Labour Board. He further contended that in the standing orders, the age of their superannuation is only 58 years till this date and there is no illegality in this section taken by the Food Corporation of India in this regard.

6. I find much force in the contention of the learned counsel for the Respondent/Management. As I have already stated though the Petitioner has disputed the action taken by the Food Corporation of India in superannuating him on 31-5-2001, he has not come forward with his claim before this Tribunal to substantiate his claim. As such, I find since the Petitioner has not established his claim, he is not entitled to any relief.

7. Thus, the reference is disposed of accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 12th December, 2006

K. JAYARAMAN, Presiding Officer

Witnesses Examined:—

On either side : NONE

Documents Marked:—

On either side : Nil

नई दिल्ली, 5 जनवरी, 2007

का.आ. 251.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्मॉल इण्डस्ट्रिज सर्विस इंस्टिट्यूट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या को प्रकाशित करती है, जो केन्द्रीय सरकार को 05-01-2007 को प्राप्त हुआ था।

[सं. एल-42011/190/96-आई आर (डीयू)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th January, 2007

S.O. 251.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 221/97) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation the management of Small Industries Service Institute and their workmen, which was received by the Central Government on 05-01-2007.

[No. L-42011/190/96-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI SURESH CHANDRA, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SARVODAYA
NAGAR, KANPUR, U.P.**

INDUSTRIAL DISPUTE NO. 221 OF 97

Sri Sanjay Kumar,
Son of Sri Krishna Kumar
R/o 85/290 Laxmi Purwa
Kanpur

and

Director
Small Scale Industries, Government of India
Ministry of Industries
107 Industrial Estate,
Kalpi Road, Kanpur.

AWARD

1. The Central Government, Ministry of Labour, New Delhi vide Notification No.L-42011/190/96-IR (DU) dated 24-10-97 has referred the following dispute for adjudication to this Tribunal:—

"Whether the action of the management of Small Industries Service Institute, Kanpur in terminating the services of Sri Sanjai Kumar Son of Sri Krishna Kumar is legal and justified? If not to what relief the workman is entitled to?"

2. The case in short as set up by the workman is that he was appointed at the post of Chowkidar on 4-7-95 vide appointment order. It is also alleged that his name was sponsored through Employment Exchange, Kanpur, and after test and interview he was placed at serial no. 1 in the select list. It has been alleged that he was removed by the opposite party w.e.f. 29-9-95 and in his place they appointed one Sri Devi Prasad. Apart from Devi Prasad opposite party also appointed several condidates at the post from which workman was removed by the opposite party names of such persons are Jai Prakash, Santosh Kumar Sharma etc. in this way the opposite party has flouted the provisions of section 25-H of Industrial Disputes Act, 1947, when they without providing to the workman an opportunity of reemployment had inducted fresh hands. It is also alleged that the department of opposite party is of permanent nature and the post against which he was appointed by the opposite party is also of regular and permanent nature. It is all elged that the post of chowkidar is lying vacant under the opposite party due to demise of regular and permanent chowkidar by name Bachchu Singh. The action of the management in the manner as indicated above is arbitrary and illegal and is also violative of principles of natural justice. It has also been pleaded by the workman that the opposite party did not prepare any seniority list of workers employed by them on temporary basis at the post of chowkidar, so as to operate principles of Last come First Go. From this point of view the action of the opposite party is illegal and nonest. In the end on the basis of above pleadings. It has been prayed that the action of the management in removing the services of the workman w. e. f. 26-9-95 be declared as illegal and unjustified. The workman be further held entitled for his reinstatement in the service with full back wages and all consequential benefits attached with the post.

3. It is to be pointed out that in the instant case opposite party appeared in the case and filed its reply simply alleging therein that the applicant was appointed at the post of Chowkidar vide order dated 4-7-95. Workman on the strength of said appointment order, had worked during the period 4-7-95 to 29-9-95. Apart from above nothing has been alleged by the opposite party on the merit of the case.

4. Workman against reply of the opposite party has filed rejoinder statement in which nothing new has been pleaded except reiterating the facts already alleged by him in his statement of claim.

5. Workman has also filed documentary evidence apart from examining himself before the tribunal as W. W. 1 in support of his claim.

6. From the record it is quite obvious that the management on earlier occassion was debarred from adducing evidence in support of his case. Later on by means of order dated 14-9-2000, order debaring management from adducing evidence was recalled by the tribunal on payment of cost of Rs. 50/- and the management was directed to adduce evidence by 9-11-2000 Management instead of adducing evidence on 14-5-01 moved an application which was fixed for disposal on 4.7.2001. The said application of the management moved

on 14-5-2001 was rejected on the ground that reply of the management is already on record. Yet again management filed another application on 28-9-01 which was order to be put up on 23-10-01. Once agains the application of the management was rejected by the tribunal and the csse was listed for arguments of the parties. Final arguments in the case were heard and the case was reserved for award.

7. From the above it is quite evident that the opposite party has palpably failed to avail the opportunities granted to them for the purposes of adducing their evidence in the case. Thus it is clear that it is a case of no evidence from the side of the opposite party whereas workman has successfully able to prove his case by means of his oral as well as documentary evidence The tribunal under these circumstances feels no hesitation in holding that the management have breached the provisions of section 25H of Industrial Disputes Act, 1947, when it denied an opportunity to the workman while making fresh appointments at the place from which the services of the workman have been removed, which act of the opposite party in the facts and circumstances of the case cannot be sustained in the eye of law. It is also settled case position of law that removing persons appointed by the management without any reasons and inducting fresh hands for the same work which was continuing with them is nothing but an act of colourable exercise of managerial powers which would be nothing but an unfair labour practice as defined under the provisions of Industrial Disputes Act, 1947. From this point of view the action of the management is liable to be set aside and is also liable to be declared as unjust and unfair.

8. Accordingly for the reasons discussed above, it is held that the action of the management of small Industries service Institute, Kalpi Road, Kanpur, in removing the services of the workmen w.e.f.29-9-95 is neither legal nor just. Accordingly, workman is held entitled for his reinstatement in service. No evidence has been given about the worker's gainful employment during the period. Therefore, no order about the back wages to worker can be given favour of workman.

9. Reference is answered accordingly.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 5 जनवरी, 2007

का.आ. 252.-औद्योगिक विवाद अधिनियम, 1947 (1947 को 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 46/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-2007 को प्राप्त हुआ था।

[सं. एल-40012/46/89-आई आर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th January, 2007

S.O. 252.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 46/2003)

of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 05-01-2007.

[No. L-40012/46/89-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, NAGPUR**

PRESENT SHRI A.N. YADAV PRESIDING OFFICER.

Case no. 46/2003

Date 13-07-2006.

The Sub-Divisional Officer (Telephones) Itwari, Nagpur

Versus

Shri Milind Marotrao Raut

AWARD

The Central Government after satisfying the existence of disputes between Milind Marotrao Raut Party no. 2 and the Sub Divisional Officer Telephones (II) Itwari Nagpur Party no. 1 referred the same for adjudication to this Tribunal under section 10 of ID Act with the following schedule.

"Whether the action of the Sub-Divisional Officer (Telegraphs) Itwari Nagpur justified in stopping Shri Milind M Raut, a casual Labour, from service w.e.f. 1-04-88 ? If not, to what relief the workman concerned is entitled to ?"

On receipt of the notice the party no. 2 workman Milind Raut appeared and filed his statement of claim, claiming to be in a continuous service of the Party no. 1 from Sept. 1981 to 01-04-1988. According to him his oral termination without any order and without complying the mandatory provisions of LD. Act was illegal. He had requested to quash the order of termination and direct to continue him in the service along with the relief of continuity of service and full back wages.

The dispute came for hearing before the Tribunal on 10-07-2006. No body from the either side was present. The perusal of record disclosed that the mother of the worker Milind Raut on 09-12-2005 had applied to drop the proceedings of the dispute, because she was not interested in continuing it after the death of her son. She has also filed a zerox copy of the death certificate of Milind Raut indicating that he expired on 23-02-92 leaving no heirs except the mother.

Consequent upon the pursis filed by her the proceedings are drop and the dispute is disposed off with the findings that now there are no disputes existing between the parties. Hence I pass this no disputes award.

A. N. YADAV, Presiding Officer

नई दिल्ली, 5 जनवरी, 2007

का.आ. 253.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 480/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05-01-2007 को प्राप्त हुआ था।

[सं. एल-40012/167/96-आई आर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th January, 2007

S.O. 253.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 480/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 05-01-2007.

[No. L-40012/167/96-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Wednesday, the 29th November, 2006

**PRESENT: K. JAYARAMAN,
Presiding Officer**

INDUSTRIAL DISPUTE NO. 480/2001

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), between the Management of Madras Telephones and their workmen.]

BETWEEN

Sri G. Ganesan : I Party/Petitioner

AND

The Chief General Manager, : II Party/
Madras Telephones, Management
Chennai.

APPEARANCE

For the Petitioner : M/s. J. Muthukumaran,
Advocates

For the Management : Sri M. Govindaraj,
Advocate

AWARD

The Central Government, Ministry of Labour vide Order No. L-40012/167/96-IR (DU) dated 04-02-1998 has referred the dispute to the Tamil Nadu State Industrial Tribunal, Chennai for adjudication, wherein they have taken

up the matter on their file as I.D. No. 26/98. After the constitution of this Tribunal namely CGIT Cum Labour Court, Chennai, the said dispute was transferred to this Tribunal and it was taken on file as I.D.No.480/2001. The Schedule mentioned dispute is as follows :—

“Whether the action of the management of Madras Telephones, Madras in terminating the services of Shri G. Ganesan, casual labour with effect from 14-4-1995 is justified or not? If not justified, to what relief he is entitled?”

2. After the receipt of the reference, the Tamil Nadu Industrial Tribunal, Chennai has numbered it as I.D.No.26/98 and issued notices to both sides. Both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively. After the constitution of this Tribunal, the said I.D. was transferred to this Tribunal and it was renumbered as I.D. 480/2001. At the first instance, this Tribunal has disposed of the said I.D. on 21st May, 2001 and aggrieved by the Award passed by this Tribunal, the Petitioner has preferred Writ Petitions No.32884/2005 and 32955/2005 before the Hon'ble High Court and the High Court has passed an order to restore the I.D. and to dispose of the industrial dispute on merits.

3. After that the Petitioner examined himself as WW 1 and filed Ex. WI. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner was employed as a wash boy in the departmental canteen of Respondent/Management in its telephone exchange at Flower Bazaar, Chennai. The Petitioner was engaged as such from the year 1988 and has continuously worked as wash boy. The canteen runs round the clock in three shifts and caters to the needs of nearly 1500 employees in the office and there are 21 permanent employees and there were 8 casual labourers including the Petitioner. Pursuant to the judgement of the Supreme Court, the Department of Personnel, Public Grievances and Pensions issued an office memorandum dated 29-1-92 stating that the employees of the non-statutory departmental/co-operative canteen/tiffin rooms located in Central Govt. offices should be treated as Govt. servants w.e.f. 1-10-91. The Petitioner who is a casual labour prior to 30-3-85 is to be regularised in terms of Casual Labour (Grant of temporary status & Regularisation) Scheme, 1989. However, the Respondent/Management issued a notice dated 15-3-95 under section 25F of the I.D. Act stating that it is proposed to disengage the Petitioner w.e.f. 14-4-95 on account, of there being no work in the canteen. The Petitioner challenged the above mentioned retrenchment notice dated 15-3-95 before Central Administrative Tribunal, Chennai in O.A. No.452/95. But, by an order dated 25-4-95 the Tribunal dismissed the O.A. on the ground that the Petitioner should have approached the forum available under I.D. Act. Thereafter the Petitioner raised a dispute before Regional Labour Commissioner, Chennai and on failure of conciliation, the dispute was referred to this Tribunal for adjudication. It is false to alleged that there was no work in the canteen and therefore, retrenchment notice is without any basis. Even to day the Respondent engaged contract workers in its day to day work. One K.Rajalakshmi, S.Rajini and R. Selvakumar were

employed from 14-4-95 to 10-8-96 on contract basis. Further, five persons have been transferred from Mylapore canteen unit from the Anna Road Canteen unit of Chennai telephones to the canteen at Flower Bazaar. Therefore, it is false to say that there was no work in the canteen and they have to retrench the Petitioner from service. The action taken by the Respondent to retrench the services of the five out of 8 casual labourers was only to regularise those casual labourers recruited prior to 30-3-85. The action of the Respondent is contrary to Section 25N of the I.D. Act, inasmuch as no permission was sought by the Respondent before terminating the services of Petitioner. After the completion of 480 days of continuous work as per the Tamil Nadu Industrial Establishment (Conferment of Permanent Status of Workmen) Act, 1981, the Petitioner is entitled to be treated as permanent employee. In any case, the action of Respondent in terminating the services of Petitioner is unreasonable, illegal and void *ab initio*. Hence, the Petitioner prays to pass an award directing the Respondent to reinstate him into service with full back wages, continuity of service and other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that it is false and incorrect to allege that TMX canteen caters to 1500 employees. Due to change of technology and other administrative exigencies the canteen at present caters to only around 700 employees and the work load of the canteen has actually reduced. Taking into account the reduced volume of work, a decision was taken to disengage the Petitioner. Only when there is an exigency like heavy absenteeism or specific extra works to be undertaken, persons were engaged for short duration on payment from canteen proceeds on contract basis. Transfers were as replacement to five officials who were transferred from TMX canteen to other units, as such the strength of canteen staff is commensurate with the work load. The Petitioner was paid only from canteen proceeds and welfare subsidy. Hence, the contention of the Petitioner that he should be considered as casual labour is incorrect. Since the Petitioner was not engaged on muster roll and paid from department funds, the question of treating him on par with casual labour of the department does not arise. Therefore, the decision taken by the department is neither unreasonable nor illegal. It is not correct to say that the Petitioner has completed 480 days of continuous work as per Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 and hence it is not applicable to him. Therefore, the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are :—

- (i) “Whether the action of the Respondent/Management in terminating the services of Petitioner from 14-4-1995 is justified?”
- (ii) “To what relief the Petitioner is entitled?”

Point No. I:—

6. In this dispute, the case of the Petitioner is that he was employed as wash boy in the telephone exchange canteen at Flower Bazaar, Chennai and he was engaged in the year 1988 and as such, he was continuously employed

as wash boy in the said canteen and he should be absorbed as a regular employee as per memorandum dated 29-1-1992 issued by Ministry of Personnel & Training, but all of a sudden, the Respondent/Management issued a notice dated 15-3-95 purporting to be under section 25F of the I.D. Act stating that it was proposed to disengage the Petitioner w.e.f. 14-4-95 on account of there being no work in the canteen and also proposed compensation under I.D. Act. But the allegation in the notice is false because, even after the notice, the Respondent/Management engaged new persons namely S/Sri Pattabiraghavan, M. Loganathan, G. Lakshmi, K. Rajalakshmi, L. Rajini and R. Selvakumar. Therefore, the contention that the Petitioner was terminated on the ground of no work in the canteen is false. The Petitioner has worked for more than 480 days in a continuous period of 24 calendar months, therefore, his service is to be regularised as per Tamil Nadu Industrial Establishment (Conferment of Permanent Status Act,) 1981. Therefore, the Petitioner contended that the order passed by the Respondent/Management is illegal and he is entitled to be reinstated in service with full back wages, continuity of service and other attendant benefits.

7. But, as against this, the Respondent contended that it is false to allege that the telephone house exchange caters about, 1500 employees. Previously, no doubt, it catered about 1500 employees. But, due to administrative exigency, the canteen caters only to 700 employees and consequently, the work also reduced and the strength is more than enough at present. Further, Office Memorandum dated 29-1-2002 is not applicable to the Petitioner. Though the Petitioner alleged that new persons were engaged by the Respondent/Management, it is not so. On the other hand, Mr. Loganathan and Mrs. Lakshmi are permanent staff deputed from other units to work in this canteen and Mrs. Lakshmi was transferred back and as and when exigency arises like heavy absenteeism or specific extra works to be undertaken, persons were engaged for short duration on payment from canteen proceeds on contract basis. The contention of the Petitioner that he should be considered as casual labour and absorbed as a telecom employee is unsustainable and payment to the Petitioner was made from the proceeds of canteen and he was not engaged on muster roll and he has not received salary from the department and hence, he cannot be considered on par with the casual labour of the department.

8. In order to establish the case of the Petitioner, the Petitioner produced EX.W1 which was issued by the Senior Assistant Traffic Superintendent (Admn.) stating that the Petitioner has worked for 244 days in the year 1992, 266 days in the year 1993 and 320 days in the year 1994 and so on. Learned counsel for the Petitioner argued that since the Petitioner was employed for more than 240 days in a continuous period of 12 calendar months, the Petitioner is entitled to the protection under section 25F of the I.D. Act. Therefore, the order of retrenchment passed by the Respondent is not legal and valid. Further, the contention of the Petitioner is that as per provisions under section 25F and 25N of the I.D. Act, mandatory requirements were not followed by the Respondent in this case. Even though the

Petitioner has filed IA, for production of documents, the Respondent has not produced the same before this Tribunal, despite the order of this Tribunal and therefore, adverse inference is to be drawn against the Respondent/Management. Learned counsel for the Petitioner further argued that there is availability of work in the canteen, but the Respondent/Management with malafide intention to stop the Petitioner from work has passed this order and therefore, the action of the Respondent/Management is illegal and he is entitled to the relief claimed by him. Learned counsel for the Petitioner relied on the rulings reported in 1998 2 LLJ 751 TAMIL MANILA THOZHILALAR SANGAM Vs. TAMIL NADU ELECTRICITY BOARD wherein the High Court has held that "once a statutory canteen becomes part of the establishment, the employees in such canteen become part of the management, notwithstanding whether, they are engaged by the contractor or engaged by co-operative society." He further relied on the rulings reported in AIR 2001 (1) SCW 4862 DEEP CHANDRA Vs. STATE OF U.P. AND ANOHER, wherein the Supreme Court has held that "an employee put in more than 240 days of continuous service in each year for almost six years and in such case, retrenchment without following procedure prescribed under section 25F of the I.D. Act is not legal and the Award passed by Labour Court granting reinstatement with back wages and other consequential benefits is upheld." Learned counsel for the Petitioner further relied on the rulings reported in 1997 3 LLN 509 A, PALANIVEL AND OTHERS Vs. TAMIL NADU KHADI AND VILLAGE INDUSTRIES BOARD AND OTHERS wherein the High Court has held that "a daily wager who has put in a continuous service of 480 days in a period of 24 calendar months should be conferred with permanent status in the establishment" Relying on these decisions, learned counsel for the Petitioner argued that the Petitioner who was engaged by the Respondent/Management as a wash boy in the departmental canteen is to be absorbed and he should be given permanent status and he further argued that similarly placed employees namely R. Rathinam, B. Soundararajan and D. Edward who raised ID.Nos. 66, 69 and 70/1998 wherein this Tribunal had passed an award ordering for reinstatement with back wages, continuity of service, therefore, the Petitioner is also entitled to the same relief.

9. But, as against this learned counsel for the Respondent contended that the Petitioner is only a daily wager and therefore, he is not entitled to any relief as claimed by him and he further relied on the rulings reported in 2006 4 SCC 1 SECRETARY, STATE OF KARNATAKA AND OTHERS Vs. UMADEVI AND OTHERS wherein the FIVE Judges of Full Bench of Supreme Court has held that "merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by relevant rules. It is not open to the Court to prevent regular recruitment at the instance of temporary employees

whose period of employment has come to an end or of adhoc employees who by the very nature of their appointment, do not acquire any right." The Supreme Court further held in that decision it is not as if ; the person who accepts an engagement either temporary or casual in nature is not aware of his employment. He accepts the employment with open eyes. It may be true that he is not in a position to bargain-not at arms length since he might have been searching for some employment so as to take out his livelihood and accepts whatever he gets. . . and took a view that when a person who temporarily or casually got employed should be directed to be continued permanently. By doing so it will be creating another mode of public appointment, which is not permissible. The Supreme Court also directed that when the Court is approached for relief by way of a Writ, the Court has necessarily to ask itself whether the person before it had any legal right to be enforced. Considered in the light of the very clear constitutional scheme, it cannot be said that temporary, contractual, casual or daily wage employees have been able to establish a legal right to be made permanent, even though they have never been appointed in terms of the relevant rules, or in adherence of Article 14 and 16 of the Constitution. Therefore, it is not possible to accept the argument that the State action, in not regularizing the employees was not fair within the framework of the rule of law," Learned counsel for the Respondent further relied on the rulings reported in CDJ 2006 SC 443 NATIONAL FERTILIZERS LTD, AND OTHERS Vs. SOMVIR SINGH, wherein the Supreme Court has held that "the regularisation furthermore is not a mode of appointment and if appointment is made without following the rules, the same being a nullity, the question of confirmation of an employee upon the expiry of purported period of probation would not arise. The appointments of Respondent are illegal and they do not thus, have any legal right to continue in service." Further, the learned counsel for the Respondent relied on the rulings reported in CDJ 2006 SC 370 HARYANA STATE ELECTRICITY DEVELOPMENT CORPORATION Vs. MAMNI, wherein the Supreme Court has categorically held that "relief of reinstatement with full back wages is not to be given automatically, each case must be considered on its own merit and the changes brought about by subsequent decisions of this Court probably having regard to the changes in policy decisions of the Govt. in the wake of prevailing market economy, globalisation, privatisation and outsourcing is evident. In view of the settled position, we modify the impugned order by directing that the Respondent shall be compensated by payment of a sum of Rs.25,000 instead of the order for reinstatement with back wages." Learned counsel for the Respondent further relied on the rulings reported in CDJ 2006 SC 395 MUNICIPAL COUNCIL, SUJANPUR Vs. SURINDER KUMAR wherein the Supreme Court has held that "it is not disputed that appointment of workman was not in sanctioned post and being a State within the meaning of Article 12 of Constitution of India, the appellant for the purpose of recruiting its employees, was bound to follow its recruitment rules and any recruitment made in violation of such rules as also in violation of constitutional scheme enshrined under Articles 14 & 16 of Constitution of India

would be void in law. The Supreme Court further held in 2006 2 LLN 89 MADHYA PRADESH STATE AGRO INDUSTRIES DEVELOPMENT CORPORATION Vs. S.C. PANDEY wherein the Supreme Court has held that "daily wager does not hold a post as he is not appointed in terms of the provisions of the Act and Rules framed thereunder and therefore, he does not derive any legal right." Further, it held that "only because an employee had worked for more than 240 days of service by that itself would not confer any legal right upon him to be regularised in service and if appointment is made contrary to provisions of statute, the same would be void and effect thereof would be that no legal right could be derived by the employee by reason thereof." Relying on these decisions, learned counsel for the Respondent contended that the Petitioner is only a daily wager and therefore, he cannot be regularised in Govt. employment and as such, his request cannot be considered for regularisation or reinstatement. He further argued that the department has issued a notice under section 25F of the I.D. Act and it is not the case of the Petitioner that notice of compensation given by the Respondent/Management is not valid in law, as such, the Petitioner is not entitled to any relief either for reinstatement or with back wages and so, the claim of the Petitioner is to be rejected.

10. I find much force in the contention of the learned counsel for the Respondent because in this case, in view of the decision of the Supreme Court, the Petitioner cannot acquire any legal right and further he has never been appointed in terms of the relevant rules or in adherence to Article 14 & 16 of the Constitution and therefore, it is not possible to accept the argument that the action 'of the Respondent/Management in not regularising the Petitioner was not fair and within the framework of rule of law. As such, I find this point against the Petitioner.

Point No.2:

The next point to be decided in this case is to what relief the Petitioner is entitled?

11. In view of my foregoing findings, I find the Petitioner is not entitled to any relief. No Costs.

12. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 29th November, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:

For the Petitioner WW 1 Sri C.anesh

For the Respondent Nil

Documents Marked:

For the I Party/Petitioner :—

Ex.No. Date Description

WI series Nil Xerox copy of the certificate given by the Senior Assistant Traffic Superintendent (Admn.), Madras Telephones to the Petitioner

For the II Party/Management:- Nil

नई दिल्ली, 5 जनवरी, 2007

का.आ. 254.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमाण्डर वर्क्स इंजीनियर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 249/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-2007 को प्राप्त हुआ था।

[सं. एल-13012/5/99-आई आर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th January, 2007

S.O. 254.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 249/99) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Commander Works Engineer, and their workmen, which was received by the Central Government on 5-1-2007.

[No. L-13012/5/99-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI SURESH CHANDRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

I.D. No. 249 of 1999

In the matter of dispute between:

Sri Uma Kant Dubey, S/o Sri Siya Ram Dubey
C/o Sri R.S. Tiwari
13/1, Site No.2, Kidwai Nagar,
Kanpur-208001, U.P.

AND

Commander Works Engineer
O/o Garrison Engineer, (M.E.S.) No.1
Wheeler Barracks
Kanpur Cantt. - 208001

AWARD

1. Central Government, Ministry of Labour, New Delhi vide Notification No. L-13012/5/99/IR (DU) dated 13-09-1999 has referred the present dispute for adjudication as under:—

“Whether the action of Commander Works Engineer in deleting the name of Shri Uma Kant Dubey from the attendance register through letter dated 10-06-1983 is legal and justified? Whether the demand of the workman to regularize him is justified? If so, to what relief he is entitled?”

2. A bare perusal of Schedule of Reference Order is indicative of the fact that it runs in two parts, viz., (i) deleting the name of Shri Uma Kant Dubey from the attendance register through letter dated 10-06-1983 is legal and

justified? (ii) Whether the demand of the workman to regularize him is justified? So far as later part of reference order is concerned, the Tribunal is oblivious of the fact that it is not the domain of the Tribunal to grant regularization in service to any workman in view of settled position of law that it is the employer/management who is best judge to adjudge the strength of its employee either on permanent basis or temporary basis or on casual basis. This question is left at the vagaries of opposite party management to consider demand of the workman mainly for the reasons that the reference with regard to earlier part of reference order is going to be decided in favour of the workman and against the management/opposite party.

3. It is common ground that the workman by name Shri Uma Kant Dubey by means of letter No. 1006/4-A/643/E-1 dated 14-06-1982 was appointed at the post of Oil Engine Driver at Rs. 210 per month plus usual allowances for a period of 89 days. It is also common ground that services of the concerned workman has been dispensed with by means of letter No. 1006/4-A/FR-1/E-1 dated 10-06-1983 on the ground of absence w.e.f. 19-04-1983. In this way it is clear from the admitted position of the case that the workman remained under continuous employment of opposite party during the period 25-06-1982 to 18-04-1983. This fact has also been admitted by the opposite party in para 4 of their written statement when they have clearly admitted that the workman during this period had rendered 298 days of continuous service.

4. The main grievance of workman as has been raised by him in his Statement of Claim is that since he had rendered continuous service much more than 240 days, he was entitled for protection of the provisions of Section 25F of I.D. Act, 1947, which *inter alia*, provides that a workman who had rendered services more than 240 days continuously is entitled for notice pay in lieu of notice or retrenchment compensation prior to dispensation of his services, from the management. It is also the case of the workman that some juniors were retained by the management who were subsequently absorbed permanently in the services of the opposite party. Therefore he be directed to be reinstated in the services of the opposite party with full back wages, continuity of service and all other consequential benefits. The other facts pleaded by the workman in his Statement of Claim do not merit therefore they are ignored to be incorporated in the body of this judgment.

5. On the contrary the opposite party have contested the claim of the workman by filing their reply, on variety of grounds.

The main plea of the opposite party as raised by them in para 6 of their written statement is that the workman had left the duty station without any reason or seeking prior permission for leaving the station without getting the leave sanctioned from the competent authority. So considering the terms of his employment, his name was

struck off of the rolls of C.P. Establishment as workman was purely casual and day-to-day basis. The opposite party has also denied the continuous appointment of the workman on the ground that candidate who served for 240 days in two calendar years were only eligible for regular appointment.

6. It is also denied by the management that the workman was ever given any assurance as no representation is available with the management. In the end it has been pleaded by the management that the present reference is not maintainable in the light of the facts and circumstances of the present case therefore the claim of workman be rejected.

7. After exchange of pleading between the parties, contesting parties filed documents in support of their respective claims. Thereafter the case was posted for evidence of parties. Needless to mention that after the evidence of workman was recorded in the case, management was called upon to adduce their evidence in support of their counter claim against the claim of the workman on 07-07-2003. On that date Authorised Representatives for the contesting parties were present but the case was adjourned to 18-07-2003 for management evidence. Since none appeared in the case from the side of the management, management was debarred from adducing evidence and the case was posted for arguments on 04-09-2003. Yet again on 04-09-2003 none appeared from the management, arguments from the side of workman were heard in detail and records of the case have also been perused by the Tribunal.

8. Thus from the above it is quite clear that the management neither could avail the opportunity to adduce evidence nor was in position to avail the opportunity for advancing their arguments, granted by the Tribunal. Therefore virtually it is a case where no evidence was produced from the side of the management, as a result of which Tribunal is bound to decide the reference on the basis of oral evidence lead by the workman in support of his claim.

9. Workman in support of his claim has examined himself as WW -1 before this Tribunal. Witness on oath has stated before the Tribunal that he joined his services under the opposite party on 26-06-1982 on the basis of Appointment Order dated 14-06-1982 issued by the management and worked continuously upto 30-06-1983. The Tribunal is not inclined to believe his evidence on this point especially for the reasons that *vide* exhibit W-17 which is the letter dated 10-06-1983, by means of which the services of the workman had been terminated w.e.f. 19-04-1983. Therefore for all intent and practical purposes it is established from the documentary evidence filed by the parties that the management had terminated the services of workman w.e.f. 19-04-1983. Witness in his evidence recorded in chief had nowhere whispered even a single word that he was neither paid notice or notice pay in lieu of notice or retrenchment compensation by the management

at the time of his termination but this would not adversely affect in view of admitted position of the case *vide* para 4 of the reply filed by the management wherein they have categorically admitted the fact during the period June 1982 to April 1983 had continuously worked for 298 days. If it is so, it hardly matters on the part of the workman whether or not there is any evidence in support of his pleadings that the provision of Sec. 25-F of the I.D. Act had not been complied by the management at the time of termination of the services, as it is for the management to have prove before the Tribunal by producing cogent and reliable evidence that in the case of workman they have not breached the provision of Sec. 25-F of the I.D. Act.

10. Witness has not produced any evidence before the Tribunal that he was not gainfully employed during the period he remained out of employment. Of course workman has claimed relief of back wages but the same has not been disputed by the management in their written statement.

During the course of argument it has been contended by the authorized representative of the workman that a workman cannot be deprived of his back wages by the Tribunal merely on the ground that he failed to adduce the evidence in this regard and has placed reliance on the law laid down by the Hon'ble Supreme Court in the case of *M/s Hindustan Tin Works (P) Ltd. V s. Employees of Hindustan Tin Works (P) Ltd.*, AIR 1989 SC 75 wherein the Hon'ble Supreme Court has held that it is for the management to prove that the workman during the period he remained out of employment was gainfully employed as when an Order of termination from service is declared as *null and void*, and normal relief which shall follow would be reinstatement with full back wages. After considering the law laid down by Hon 'ble Supreme Court, the Tribunal is of the firm opinion that the workman cannot be deprived of his back wages as the law relied upon by the workman (*supra*) is fully applicable to the facts and circumstances of the present case.

11. From the evidence of the witness it is also clear that the management has not able to bring out any material fact from the cross examination of the workman which may improve or help the case of the management.

12. It has also been contended by the authorized representative of the workman that the appointment of the workman cannot be termed to be fixed term appointment for 89 days as admittedly the workman was allowed to remain in the services of the management for sufficient long period, even after expiry of 89 days From 26-06-1982, the date when workman has joined the service. Tribunal find substance in the arguments advanced by the authorized representatives for the workman. Had the appointment of the workman being for 89 days only, as is clear from the Appointment Letter dated 14-06-1982 (Ex. W-1), he would not have been remained in service upto 18-04-1982 as would be evident from Exhibit W-17, i.e. Termination Letter issued by the management.

13. It has also been contended on behalf of the authorized representative of the workman that the reasons shown for termination of workman vide Exhibit W -17 amounts to stigma therefore without there being any disciplinary action the concerned workman could not have been terminated simplisiter on the ground vide letter dated 10-06-1983.

If it is the case of the management, workman could not have been terminated from his service without any charge sheet/enquiry on the ground of absent from the duty. In any view of the matter the termination of the services amounts to stigma for which disciplinary enquiry is must and in the absence of the same Tribunal seems no hesitation in holding that the action of the management is wholly illegal and unjust and can not be sustained in the eye of law.

14. Lastly, it has been contended by the authorized representative of the workman that termination of the services of the workman amounts to retrenchment as defined under Section 2 (oo) of the I.D. Act, 1947 as provision of Section 25-F of the I.D. Act have been flouted badly by the management in the case of the workmen when they miserably failed to comply with the provision of Section 25-F of the Act, at the time of terminating services of the workman which certainly amounts to illegal retrenchment. Tribunal fully agrees with the submission of the Authorised Representatives for the workman.

15. For the reasons discussed above it is held that the action of the management so far as it relates in deleting the name of Sri Uma Kant Dubey from the attendance register through letter dated 10-06-1983 is neither legal nor just and is accordingly set aside.

16. As a result, it is held that the workman is entitled to be reinstated in service with 50% back wages from the date of Reference Order, as the reference order is highly belated.

Reference is awarded accordingly in favour of the workman and against the management.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 5 जनवरी, 2007

का.आ. 255.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चैन्नई के पंचाट (संदर्भ संख्या 481/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05-1-2007 को प्राप्त हुआ था।

[सं. एल-40012/166/96-आई आर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th January, 2007

S.O. 255.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 481/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the

Industrial Dispute between the employers in relation to the management of Department of Telecom, and their workman, which was received by the Central Government on 05-1-2007

[No. L-40012/166/96-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 29th November, 2006

PRESENT: K. JAYARAMAN,

Presiding Officer

INDUSTRIAL DISPUTE No. 481/2001

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Madras Telephones and their workmen)

BETWEEN

Sri D. Danial : I Party/Petitioner

AND

The Chief General Manager,
Madras Telephones, Chennai. : II Party Management
APPEARANCE

For the Petitioner M/s. J. Muthukumaran,
Advocates

For the Management Sri M. Govindaraj,
Advocate

AWARD

The Central Government, Ministry of Labour vide Order No. L-40012/166/96-IR(DU) dated 04-02-1998 has referred the dispute to the Tamil Nadu State Industrial Tribunal, Chennai for adjudication, wherein they have taken up the matter on their file as ID.No.27/98. After the constitution of this Tribunal namely CGIT-Cum-Labour Court, Chennai, the said was dispute transferred to this Tribunal and it was taken on file as I.D. No. 481/2001. The Schedule mentioned dispute is as follows :

"Whether the action of the management of Madras Telephones, Madras in terminating the services of Shri D.Danial, casual labour with effect from 14-4-1995 is justified or not? If not justified, to what relief he is entitled?"

2. After the receipt of the reference, the Tamil Nadu Industrial Tribunal, Chennai has numbered it as I.D.No.27/98 and issued notices to both sides. Both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively. After the constitution of this Tribunal, the said I.D. was transferred to this Tribunal and it was renumbered as I.D. 481/2001. At the first instance, this Tribunal has disposed of the said I.D. on 21 st May, 2001 and aggrieved by the Award passed by this Tribunal, the Petitioners had preferred Writ Petitions No. 32884/2005 and 32955/2005 before the Hon'ble High Court and the High Court has passed an order to restore the I.D. and to dispose of the industrial dispute on merits.

3. After that the Petitioner examined himself as WW 1 and filed Ex. W 1. The allegations of the Petitioner in the Claim Statement are briefly as follows:

The Petitioner was employed as a wash boy in the departmental canteen of Respondent/ Management in its telephone exchange at Flower Bazaar, Chennai. The Petitioner was engaged as such from the year 1988 and has continuously worked as wash boy. The canteen runs round the clock in three shifts and caters to the needs of nearly 1500 employees in the office and there are 21 permanent employees and there were 8 casual labourers including the Petitioner. Pursuant to the judgement of the Supreme Court, the Department of Personnel, Public Grievances and Pensions issued an office memorandum dated 29-1-92 stating that the employees of the non-statutory departmental/co-operative canteen/tiffin rooms located in Central Govt. offices should be treated as Govt. servants w.e.f. 1-10-91. The Petitioner who is a casual labour prior to 30-3-85 is to be regularised in terms of Casual Labour (Grant of Temporary Status & Regularisation) Scheme, 1989. However, the Respondent/Management issued a notice dated 15-3-95 under Section 25F of the I.D. Act stating that it is proposed to disengage the Petitioner w.e.f. 14-4-95 on account of there being no work in the canteen. The Petitioner challenged the above mentioned retrenchment notice dated 15-3-95 before Central Administrative Tribunal, Chennai in O. A. No. 447/95. But, by an order dated 25-4-95 the Tribunal dismissed the O. A. on the ground that the Petitioner should have approached the forum available under I.D. Act. Thereafter the Petitioner raised a dispute before Regional Labour Commissioner, Chennai and on failure of conciliation, the dispute was referred to this Tribunal for adjudication. It is false to allege that there was no work in the canteen and therefore, retrenchment notice is without any basis. Even today the Respondent engaged contract workers in its day to day work. One K. Rajalakshmi, S. Rajini and R. Selvakumar were employed from 14-4-95 to 10-8-96 on contract basis. Further, five persons have been transferred from Mylapore Canteen unit from the Anna Road Canteen unit of Chennai Telephones to the canteen at Flower Bazaar. Therefore, it is false to say that there was no work in the canteen and they have to retrench the Petitioner from service. The action taken by the Respondent to retrench the services of the five out of 8 casual labourers was only to regularise those casual labourers recruited prior to 30-3-85. The action of the Respondent is contrary to Section 25N of the LD. Act, inasmuch as no permission was sought by the Respondent before terminating the services of Petitioner. After the completion of 480 days of continuous work as per the Tamil Industrial Establishment (Conferment of Permanent Status of Workmen) Act, 1981, the Petitioner is entitled to be treated as permanent employee. In any case, the action of Respondent in terminating the services of Petitioner is unreasonable, illegal and void ab initio. Hence, the Petitioner prays to pass an award directing the Respondent to reinstate him into service with full back wages, continuity of service and other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that it is false and incorrect to allege

that TMX canteen caters to 1500 employees. Due to change in technology and other administrative exigencies the canteen at present caters to only around 700 employees and the workload of the canteen has actually reduced. Taking into account the reduced volume of work, a decision was taken to disengage the Petitioner. Only when there is an exigency like heavy absenteeism or specific extra works to be undertaken, persons were engaged for short duration on payment from canteen proceeds on contract basis. Transfers were made as replacement to five officials who were transferred from TMX canteen to other units, as such the strength of canteen staff is commensurate with the workload. The Petitioner was paid only from canteen proceeds and welfare subsidy. Hence, the contention of the Petitioner that he should be considered as casual labour is incorrect. Since the Petitioner was not engaged on muster roll and paid from department funds, the question of treating him on par with casual labour of the department does not arise. Therefore, the decision taken by the department is neither unreasonable nor illegal. It is not correct to say that the Petitioner has completed 480 days of continuous work as per Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 and hence it is not applicable to him. Therefore, the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are :—

- (i) "Whether the action of the Respondent/ Management in terminating the services of Petitioner from 14-4-1995 is justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1:

6. In this dispute, the case of the Petitioner is that he was employed as wash boy in the telephone exchange canteen at Flower Bazaar, Chennai and he was engaged in the year 1988 and as such, he was continuously employed as wash boy in the said canteen and he should be absorbed as a regular employee as per memorandum dated 29-1-1992 issued by Ministry of Personnel & Training. In view of a sudden, the Respondent/Management issued a notice dated 15-3-95 purporting to be under Section 25F of the I.D. Act stating that it was proposed to disengage the Petitioner w.e.f. 14-4-95 on account of there being no work in the canteen and also proposed compensation under I.D. Act. But the allegation in the notice is false because, even after the notice, Respondent/Management engaged new persons namely S/Sri Pattabiraghavan, M. Loganathan, G. Lakshmi, K. Rajalakshmi, L. Rajini and R. Selvakumar. Therefore, the contention that the Petitioner was terminated on the ground of no work in the canteen is false. The Petitioner has worked for more than 480 days in a continuous period of 24 calendar months, therefore, his service is to be regularised as per Tamil Nadu Industrial Establishment (Conferment of Permanent Status Act), 1981. Therefore, the Petitioner contended that the order passed by the Respondent/Management is illegal and he is entitled to be reinstated in service with full back wages, continuity of service and other attendant benefits.

7. But, as against this, the Respondent contended that it is false to allege that the telephone house exchange caters about, 1500 employees. Previously, no doubt, it catered about 1500 employees. But, due to administrative exigency, the canteen caters only to 700 employees and consequently, the work also reduced and the strength is more than enough at present. Further, Office Memorandum dated 29.1.2002 is not applicable to the Petitioner. Though the Petitioner alleged that new persons were engaged by the Respondent/Management, it is not so. On the other hand, Mr. Loganathan and Mrs. Lakshmi are permanent staff deputed from other units to work in this canteen and Mrs. Lakshmi was transferred back and as and when exigency arises like heavy absenteeism or specific extra works to be undertaken, persons were engaged for short duration on payment from canteen proceeds on contract basis. The contention of the Petitioner that he should be considered as casual labour and absorbed as a telecom employee is unsustainable and payment to the Petitioner was made from the proceeds of canteen and he was not engaged on muster roll and he has not received salary from the department and hence, he cannot be considered on par with the casual labour of the department.

8. In order to establish the case of the Petitioner, the Petitioner produced Ex. for W1 which was issued by the Senior Assistant Traffic Superintendent (Admn.) stating that the Petitioner has worked 298 days in the year 1991, 311 days in the year 1992, 268 days in the year 1993 and 300 days in the year 1994 and so on. Learned Counsel for the Petitioner argued that since the Petitioner was employed for more than 240 days in a continuous period of 12 calendar months, the Petitioner is entitled to the protection under Section 25F of the I.D. Act. Therefore, the order of retrenchment passed by the Respondent is not legal and valid. Further, the contention of the Petitioner is that as per provisions under Section 25F and 25N of the I.D. Act, mandatory requirements were not followed by the Respondent in this case. Even though the Petitioner has filed I.A. for production of documents, the Respondent has not produced the same before this Tribunal, despite the order of this Tribunal and therefore, adverse inference is to be drawn against the Respondent/Management. Learned counsel for the Petitioner further argued that there is availability of work in the canteen, but the Respondent/Management with malafide intention to stop the Petitioner from work has passed this order and therefore, the action of the Respondent/Management is illegal and he is entitled to the relief claimed by him. Learned Counsel for the Petitioner relied on the rulings reported in 1998 2 LLJ 751 TAMIL MANILA THOZHILALAR SANGAM Vs. TAMIL NADU ELECTRICITY BOARD wherein the High Court has held that "once a statutory canteen becomes part of the establishment, the employees in such canteen become part of the, management, notwithstanding whether they are engaged by the contractor or engaged by co-operative society." He further relied on the rulings reported in AIR 2001 (1) SCW 4862 DEEP CHANDRA Vs. STATE OF U.P. AND ANOTHER, wherein the Supreme Court has held that "an employee put in more than 240 days of continuous service in each year for almost six years and in such case, retrenchment without following procedure prescribed

under section 25F of the I.D. Act is not legal and the Award passed by Labour Court granting reinstatement with back wages and other consequential benefits is upheld." Learned counsel for the Petitioner further relied on the rulings reported in 1997 3 LLN 509 A. PALANIVEL AND OTHERS Vs. TAMIL NADU KHADI AND VILLAGE INDUSTRIES BOARD AND OTHERS wherein the High Court has held that "a daily wager who has put in a continuous service of 480 days in a period of 24 calendar months should be conferred with permanent status in the establishment." Relying on these decisions, Learned Counsel for the Petitioner argued that the Petitioner who was engaged by the Respondent/Management as a wash boy in the departmental canteen is to be absorbed and he should be given permanent status and he further argued that similarly placed employees namely R. Rathinam, B. Soundarajan and D. Edward who raised I.D. Nos. 66, 69 and 70/1998 wherein this Tribunal had passed an award ordering for reinstatement with back wages, continuity of service, therefore, the Petitioner is also entitled to the same relief.

9. But, as against this learned counsel for the Respondent contended that the Petitioner is only a daily wager and therefore, he is not entitled to any relief as claimed by him and he further relied on the rulings reported in 2006 4 SCC 1 SECRETARY, STATE OF KARNATAKA AND OTHERS Vs. UMADEVI AND OTHERS wherein the FIVE Judges of Full Bench of Supreme Court has held that "merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by relevant rules. It is not open to the Court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad-hoc employees who by the very nature of their appointment, do not acquire any right." The Supreme Court further held in that decision it is not as if, the person who accepts an engagement either temporary or casual in nature is not aware of his employment. He accepts the employment with open eyes. It may be true that he is not in a position to bargain - not at arms length since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets and took a view that when a person who temporarily or casually got employed - should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment, which is not permissible. The Supreme Court also directed that when the Court is approached for relief by way of a Writ, the court has necessarily to ask itself whether the person before it had any legal right to be enforced. Considered in the light of the very clear constitutional scheme, it cannot be said that temporary, contractual, casual or daily wage employees have been able to establish a legal right to be made permanent, even though they have never been appointed in terms of the relevant rules, or in adherence of Article 14 and 16 of the Constitution. Therefore, it is not possible to accept the argument that the State action in not regularizing the employees was not fair within the

framework of the rule of law." Learned counsel for the Respondent further relied on the rulings reported in CDJ 2006 SC 443 NATIONAL FERTILIZERS LTD. AND OTHERS Vs. SOMVIR SINGH, wherein the Supreme Court has held that "the regularisation furthermore is not a mode of appointment and if appointment is made without following the rules, the same being a nullity, the question of confirmation of an employee upon the expiry of purported period of probation would not arise. The appointments of Respondent are illegal and they do not thus, have any legal right to continue in service." Further, the learned counsel for the Respondent relied on the rulings reported in CDJ 2006 SC 370 HARYANA STATE ELECTRICITY DEVELOPMENT CORPORATION Vs. MAMNI, wherein the Supreme Court has categorically held that "relief of reinstatement with full back wages is not to be given automatically, each case must be considered on its own merit and the changes brought about by subsequent decisions of this Court probably having regard to the changes in policy decisions of the Govt. in the wake of prevailing market economy, globalisation, privatisation and outsourcing is evident. In view of the settled position, we modify the impugned order by directing that the Respondent shall be compensated by payment of a sum of Rs.25, 000/- instead of the order for reinstatement with back wages." Learned counsel for the Respondent further relied on the rulings reported in CDJ 2006 SC 395 Municipal Council, Sujampur Vs. Suridner Kumar wherein the Supreme Court has held that "it is not disputed that appointment of workman was not in sanctioned post and being a State within the meaning of Article 12 of Constitution of India, the appellant for the purpose of recruiting its employees, was bound to follow its recruitment rules and any recruitment made in violation of such rules as also in violation of constitutional scheme enshrined under Articles 14 & 16 of Constitution of India would be void in law. The Supreme Court further held in 2006 2 LLN 89 MADHYA PRADESH STATE AGRO INDUSTRIES DEVELOPMENT CORPORATION Vs. S.C. PANDEY wherein the Supreme Court has held that "daily wager does not hold a post as he is not appointed in terms of the provisions of the Act and Rules framed thereunder and therefore, he does not derive any legal right." Further, it held that "only because an employee had worked for more than 240 days of service by that itself would not confer any legal right upon him to be regularised in service and if appointment is made contrary to provisions of statute, the same would be void and effect thereof would be that no legal right could be derived by the employee by reason thereof". Relying on these decisions, Learned Counsel for the Respondent contended that the Petitioner is only a daily wager and therefore, he cannot be regularised in Govt. employment and as such, his request cannot be considered for regularisation or reinstatement. He further argued that the department has issued a notice under Section 25F of the I.D. Act and it is

not the case of the Petitioner that notice of compensation given by the Respondent/ Management is not valid in law, as such, the Petitioner is not entitled to any relief either for reinstatement or with back wages and so, the claim of the Petitioner is to be rejected.

10. I find much force in the contention of the learned counsel for the Respondent because in this case, in view of the decision of the Supreme Court, the Petitioner cannot acquire any legal right and further he has never been appointed in terms of the relevant rules or in adherence to Article 14 & 16 of the Constitution and therefore, it is not possible to accept the argument that the action of the Respondent/Management in not regularising the Petitioner was not fair and within the framework of rule of law. As such, I find this point against the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled?

11. In view of my foregoing findings, I find the Petitioner is not entitled to any relief. No Costs.

12. Thus, the reference is answered accordingly,

(Dictated to the P.A. transcribe and typed by him, corrected and pronounced by me in the open court on this Day the 29th November, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the Petitioner	WW 1 Sri D. Danier
For the Respondent	Nil

Documents Marked :

For the I Party/Petitioner:

Ex. No. Date	Description
W 1 series Nil	Xerox copy of the certificate given by the Senior Assistant Traffic Superintendent (Admn), Madras Telephones to the Petitioner.

For the II Party/Management Nil

नई दिल्ली, 8 जनवरी, 2007

का.आ. 256.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार 'नार्थ सेंट्रल रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 150/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05-1-2007 को प्राप्त हुआ था।

[सं. एल-41012/31/99-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2007

S.O. 256.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 150/98) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur Now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of North Central Railway, and their workmen, which was received by the Central Government on 05-1-2007.

[No. L-41012/31/99-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SRI SURESHCHANDRA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT SARVODAYA, NAGAR, KANPUR, U. P.

Industrial Dispute No.: 150 of 1999, I.D., No 48 of 99
and I.D.NO. 35 of 04

1. The President,
Rashtriya Chaturth Shreni Rail Mazdoor Congress
INTUC 43/16 sector 15.A, Sector 16, Sikandra,
U. P. Agra. (I. D. NO. 150 of 99)
2. The President (Address of President is same as is given
at Serial No. 1 above) I. D. Case No. 48 01 99
3. Sri Prem Lal C/o Shri Surendra Singh 68 Sector 16
Sikandra, Agra.

And

The Divisional Railway Manager
North central Railway Agra.

AWARD

1. Central Government, Ministry of Labour,
New Delhi, vide notification nos: L-41012/299/200-IR(B-I)
dt. 4-6-04 has referred the following dispute for adjudication
in I. D. Case No. 36 of 2004:

KYA MANDAL RAIL PRABANDHAK (KA)
CENTRAL RAILWAY JHANSI DWARA KARMKAR
SRI PREM LAL KO UNKE PITA LNARBADA PRASAD
KI JAGAH DAY ADHAR PAR RAIL SEWA MEIN
NAUKARI NAHI DIYA JAYA NY ANYAYOCHIT HAI?
YADI NAHI TO SAMBANDHIT KARMKAR KIS
ANUTOSH KA HAQDAR HAI?

2. Vide notification No. L-41011/45/97-IR(B-I) dated
5-3-99, in I. D. Case No. 40 of 99 has referred the following
dispute for adjudication to this Tribunal:

(A) Whether the contention of the management of
Central Railway Jhansi that the widow of Sri Vijendra Singh
was offered compassionate appointment in 1979 which she
denied is correct?

(B) whether the claim of Sri Omveer Singh, son Sri
Vijendra singh for compassionate appointment after
attaining the age majorhood is justified. If so, to what relief
the said workman is entitled.

3. Vide notification No. L-41012/31/99 IR(B-I) dated
18-6-99 in industrial dispute No. 150/98 following dispute
has been referred to this tribunal by Central Government
for its adjudication:

Whether the demand of the Rashtriya Chaturth Shreni
Rail Mazdoor Congress (Intuc) in its strike Notice
dated 23-6-98 is legal and justified? If not to what
relief the workman is entitled?

AWARD

1. Since all the above industrial disputes have been
raised by the President Rashtriya Rail Mazdoor Congress,
Agra against the management of North Central Railway
Jhansi over the matter referred to in the schedule of
reference order and the same is pending disposal before
the tribunal and since the representative for the union
itself stopped coming/attending the tribunal nor the above
cases were duly attended by the concerned workman for
the sufficient long period despite the fact that it was in
their notice that the case is pending for evidence of the
workman/union before the tribunal. It is therefore
proposed to dispose of the above disputes by means of
this common award.

2. Union/workmen after availing of sufficient
opportunity of adducing evidence in support of their
respective claims, failed to adduce evidence. As no
evidence on record from the side of the workers involved
in the said cases, representative for the management all
so endorse a remark over the file that they do not want to
adduce evidence in support of the case of the
management. Thus virtually it is a case where no evidence
is available on record from either side. Heavy burden lies
on the workman to have adduced their claim by adducing
their respective evidence in support of their claim. As the
union / workman have palpably failed to adduce oral or
documentary evidence before the tribunal in support of
their claim, the tribunal feels no hesitation in holding that
the concerned workmen/union involved in the above case
are not entitled for any relief as claimed by them in their
respective statement of claim for want of evidence and
proof. Reference is therefore liable to be answered against
the union/ workmen for want of proof and evidence.

3. In the end it is accordingly held that none of the
workman or union involved in the above cases are
entitled for the relief claimed by them for want of
evidence and proof. Reference is answered accordingly
against the union/workman and in favour of management
of Railway.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 8 जनवरी, 2007

का.आ. 257.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्थ सैन्ट्रल रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 40/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-2007 को प्राप्त हुआ था।

[सं. एल-41011/45/1997-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2007

S.O. 257.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 40/99) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of North Central Railway and their workman, which was received by the Central Government on 5-1-2007.

[No. L-41011/45/1997-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SRI SURESH CHANDRA PRESIDING
OFFICER CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
SARVODAYA NAGAR,
KANPUR, U.P.

Industrial Dispute No. : 150 of 1999, I.D., No. 48 of 99
and I. D. No. 35 to 04

1. The President,
Rashtriya Chaturth Shreni Rail
Mazdoor Congress,
INTUC 43/16 Sector 15-A
Sector 16 Sikandra,
U.P., Agra.

(I.D. No. 150 of 99)

2. The President
(Address of President is same as is given at
Serial No. 1 above)
I.D. Case No. 48 of 99
3. Sri Prem Lal
C/o. Surendra Singh
68 Sector 16, Sikandra
Agra.

And

The Divisional Railway Manager
North Central Railway,
Agra.

AWARD

1. Central Government, Ministry of Labour, New Delhi, Vide Notification Nos. L-41012/299/2003-IR(B-I)

dated 4-6-2004 has referred the following dispute for adjudication in I.D. Case No. 35 of 2004 :

Kya Mandal Rail Prabandhak (KA) Central Railway Jhansi Dwara Karmakar Sri Prem Lal Ko Unke Pita L. Narbada Prasad Ki Jagah Day Adhar Par Rail Sewa Mein Naukari Nahi Diya Jana Nyayochit Hai? Yadi Nahi To Sambandhit Karmakar Kis Anutosh Ka Haqdar Hai?

2. Vide notification No. L-41011/45/97-IR(B-I) dated 5-3-99, in I.D. Case No. 40 of 99 has referred the following dispute for adjudication to this Tribunal :—

- (a) Whether the contention of the management of Central Railway Jhansi that the widow of Sri Vijendra Singh was offered compassionate appointment in 1979 which she denied is correct?
- (b) Whether the claim of Sri Omveer Singh, son Sri Vijendra Singh for compassionate appointment after attaining the age majorhood is justified? If so, to what relief the said workman is entitled.

3. Vide notification no. L-41012/31-99-IR(B-I) dated 18-6-99 in industrial dispute No. 150/98 following dispute has been referred to this tribunal by Central Government for its adjudication :

Whether the demand of the Rashtriya Chaturth Shreni Rail Mazdoor Congress (Intuc) in its Strike Notice dated 23-6-98 is legal and justified? If not to what relief the workman is entitled?

AWARD

1. Since all the above industrial disputes have been raised by the President Rashtriya Rail Mazdoor Congress Agra against the Amangement of North Central Railway Jhansi over the matter referred to in the schedule of reference order and the same is pending disposal before the tribunal and since the representative for the union itself stopped coming/attending the tribunal nor the above cases were duly attended by the concerned workman for the sufficient long period despite the fact that it was in their notice that the case is pending for evidence of the workman/union before the tribunal. It is therefore propsoed to dispose of the above disputes by means of this common award.

2. Union/Workmen after availing of sufficient opportunity of adducing evidence in support of their respective claims, failed to adduce evidence. As no evidence on record from the side of the workers involved in the said cases, representative for the management also endorsed a remark over the file that they do not want to adduce evidence in support of the case of the management. Thus virtually it is a case where no evidence is available on record from either side. Heavy burden lies on the workman to have adduced their claim by adducing their respective

evidence in support of their claim. As the union/workman have palpably failed to adduce oral or documentary evidence before the tribunal in support of their claim, the tribunal feels no hesitation in holding that the concerned workmen/union involved in the above case are not entitled for any relief as claimed by them in their respective statement of claim for want of evidence and proof. Reference is therefore liable to be answered against the union/workman for want of proof and evidence.

3. In the end it is accordingly held that none of the workman or union involved in the above cases are entitled for the relief claimed by them for want of evidence and proof. Reference is answered accordingly against the union/workman and in favour of management of Railway.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 8 जनवरी, 2007

का.आ. 258.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्थ सैन्ट्रल रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण काबपुर के पंचाट (संदर्भ संख्या 35/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-2007 को प्राप्त हुआ था।

[सं. एल-41012/299/2003-आई आर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2007

S.O. 258.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 35/2004) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of North Central Railway and their workman, which was received by the Central Government on 5-12-2007.

[No. L-41012/299/2003-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SRI SURESH CHANDRA PRESIDING
OFFICER CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
SARVODAYA NAGAR,
KANPUR, U.P.**

**Industrial Dispute No. : 150 of 1999, I.D., No. 48 of 99
and I.D. No. 35 of 04**

1. The President
Rashtriya Chaturth Shreni Rail
Mazdoor Congress,
Intuc 43/16 Sector 15-A
Sector 16 Sikandra,
U.P. Agra.

(I.D. No. 150 of 99)

2. The President
(Address of President is same as is given at
Serial No. 1 above)
I.D. Case no. 48 of 99
3. Sri Prem Lal
C/o. Shri Surendra Singh
68 Sector 16 Sikandra
Agra.

And

The Divisional Railway Manager
North Central Railway
Agra.

AWARD

1. Central Government, Ministry of Labour, New Delhi, Vide Notification Nos: L-41012/299/2003(IR(B-I) dated 4-6-2004 has referred the following dispute for adjudication in I.D. Case No. 35 of 2004 :

Kya Mandal Rail Prabandhak (KA) Central Railway Jhansi Dwara Karmakar Sri Prem Lal Ko Unke Pita L. Narbada Prasad Ki jagah Day Adhar Par Rail Sewa Mein Naukari Nahi Diya Jana Nyayochit Hai? Yadi Nahi To Sambandhit Karmakar Kis Anutosh Ka Haqdar Hai?

2. Vide notification No L-41011/45/97-IR(B-I) dated 5-3-99, in I.D. Case No. 40 of 99 has referred the following dispute for adjudication to this Tribunal :—

- (a) Whether the contention of the management of Central Railway Jhansi that the widow of Sri Vijendra Singh was offered compassionate appointment in 1979, which she denied is correct?
- (b) Whether the claim of Sri Omveer Singh, son of Sri Vijendra Singh for compassionate appointment after attaining the age majorhood is justified? If so, to what relief the said workman is entitled?

3. Vide notification No. L-41012/31/99 IR(B-I) dated 18-6-99 in industrial dispute no. 150/98 following dispute has been referred to this tribunal by Central Government for its adjudication :

Whether the demand of the Rashtriya Chaturth Shreni Rail Mazdoor Congress (Intuc) in its Strike Notice dated 23-6-98 is legal and justified? If not to what relief the workman is entitled?

AWARD

1. Since all the above industrial disputes have been raised by the President Rashtriya Rail Mazdoor Congress Agra against the management of North Central Railway Jhansi over the matter referred to in the schedule of reference order and the same is pending disposal before

the tribunal and since the representative for the union itself stopped coming/attending the tribunal nor the above cases were duly attended by the concerned workman for the sufficient long period despite the fact that it was in their notice that the case is pending for evidence of the workman/union before the tribunal. It is therefore proposed to dispose off the above disputes by means of this common award.

2. Union/Workmen after availing of sufficient opportunity of adducing evidence in support of their respective claims, failed to adduce evidence. As no evidence on record from the side of the workers involved in the said cases, representative for the management also endorsed a remark over the file that they do not want to adduce evidence in support of the case of the management. Thus virtually it is a case where no evidence is available on record from either side. Heavy burden lies on the workman to have adduced their claim by adducing their respective evidence in support of their claim. As the union/workman have palpably failed to adduce oral or documentary evidence before the tribunal in support of their claim, the tribunal feels no hesitation in holding that the concerned workmen/union involved in the above case are not entitled for any relief as claimed by them in their respective statement of claim for want of evidence and proof. Reference is therefore liable to be answered against the union/workman for want of proof and evidence.

3. In the end it is accordingly held that none of the workman or union involved in the above cases are entitled for the relief claimed by them for want of evidence and proof. Reference is answered accordingly against the union/workman and in favour of management of Railway.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 8 जनवरी, 2007

का.आ. 259.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. एफ. रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण गुवाहाटी (असम) के पंचाट (संदर्भ संख्या 3/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-2007 को प्राप्त हुआ था।

[सं. एल-41012/9/2005-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2007

S.O. 259.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 3/2005) of the Central Government Industrial Tribunal/Labour

Court, Guwahati Assam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of N. F. North Central Railway and their workman, which was received by the Central Government on 5-12-2007.

[No. L-41012/9/2005-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT GUWAHATI, ASSAM

PRESENT : Shri H. A. Hazarika,
Presiding Officer,
CGIT-cum-Labour Court,
Guwahati

Ref. Case No. 03 of 2005

In the matter of an Industrial Dispute between :—

The Management of N.F. Railway, Lumding, Nagaon.

Vrs.

Their Workman Sri Monoranjan Nunia (Raju), Karimganj

APPEARANCES

For the Workman : Mr. A Dasgupta, Advocate
Miss. B. Das, Advocate

For the Management : Mr. S.N. Choudhary, Rly.
Advocate

Date of Award : 28-12-2006

AWARD

1. The Government of India, Ministry of Labour, New Delhi, vide its order No. L-410012/9/2005-IR(B-I) referred this Industrial Dispute arose between the employers in relation to the Management of the General Manager (P), N.F. Railway, Lumding and their Workman, Sri Monoranjan Nunia (Raju), to adjudicate and to pass an award on the strength of powers conferred by clause (d) of Sub-section (1) and Sub-Section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) on the basis of the following Schedule.

SCHEDULE

“Whether the industrial dispute raised by Sh. Monoranjan Nunia (Raju) in N.F. Railway Box Porter against the management of N.F. Railway was alleged illegal termination and regulation in service justified? If so to what relief the workman is entitled?”

2. On being appeared by both the parties the proceeding is proceeded here for disposal being Numbered 03/2005 as per Procedure.

3. The case of the workman Sri Monoranjan Nunia (Raju) in brief from narration of his W.S. is that the N.F. Railway engaged him for handling coal and ashes of steam

Engine at Badarpur and he worked so till abolition of Steam Engine in 1997. After abolition of the Steam Engine the workman was retrenched from the Railway Service. After that the workman applied to N. F. Railway authority for a permanent job and in response to that he was engaged as a Box Porter and worked so for more than 2½ years. But violating of the provision 25 (f) of Industrial Dispute Act, 1947 all of a sudden he was retrenched from his service on 14-8-2003.

4. Though he was retrenched he was called again to work under a Contractor under Nagaland Mazdoor Co-operative Society, Badarpur which is undoubtedly an unlawful practice. On several occasions he raised his demand for absorption and regularization in Railway service but when all his efforts ended in vain he had to move an Industrial Dispute for his reinstatement and regularization. That the Conciliation Officer initiated conciliation proceeding but the same could not be settled and the Conciliation Officer having failed to arrive at a settlement submitted is final report and the appropriate Government referred this dispute for adjudication. That the workman has been illegally retrenched in gross violation of mandatory provision of Section 25 (f) and prayed to pass an award directing the management of N.F. Railway to reinstate and regularize his service under N. F. Railway and to pay full back wages.

5. The case of the Management in brief is that the case is not maintainable in law as well as on fact and liable to be dismissed.

6. That the handling of work of coal ashes during abolition of Steam Engine was awarded to the Labour Co-operative Society on contractual agreement. That the workman was a labourer engaged by the contractor. The Management N. F. Railway, not engaged the workman. After abolition of Steam Locomotive the Diesel Loco started to work. Thus Railway did not engage the workman. Further the contractual work of transportation of drivers line boxes and Tool Box at Badarpur was awarded to Labour Co-operative Society on contract basis from 15-8-98 to 14-8-2003 and Sri Monoranjan Nunia worked under the contractor as engaged by the contractor and not engaged by the Railway. Daily wages paid by the contractor and not by the Railway Management as the workman was utilized by the contractor. The period of contract was expired on 14-8-2003, since the workman was engaged by the contractor, the question of illegal termination by the Railway authority does not arise. The administrative office of the Sr. DME/Lumding had not issued Identity Card. It might have been issued from the office of SSE/Loco/Badarpur Office for the purpose of allowing the contractor's labours in the Railway premises for doing the contractual works so that trespassers do not enter to Railway premises. Moreover, the Identity Card if any, issued by the SSE/Loco/Badarpur is not supported by any office records. Hence, issuance of Identity Card, if any, does not entitle

the workman for absorption in the Railway. The payment was made to the workman by the contractor as per clause-9 of the contract agreement. The petition filed by the petitioner/workman is false, frivolous and it is nothing but gross nuisance of law and as such it is liable to be dismissed with no awards.

7. Heard the argument of the learned advocates Mr. A. Dasgupta for the workman and Mr. S. N. Choudhury, Advocate the Management in details. Perused the evidence of the workman submitted in Affidavit and the cross-examination recorded by my own hand. Also perused the evidence including cross-examination which are recorded by my own hand.

8. The brief contention of the Management is that the workman Monoranjan Nunia was never appointed as employee of the Railway. There is no relation of employer and employee between the Management and the workman. The workman used to work under a contractor for carrying coal and ashes while Steam Engine was in operation and after abolition for some certain period the workman was not working even under the contractor in the Railway works. He was then working through Nagaland Mazdoor Union, Badarpur for carrying Tool Box of Diesel Engine. The Identity Card was given only to allow him to Railway premises and it is not an appointment letter. The workman is not a Railway employee in any circumstances and his case may be dismissed.

9. The argument of the learned Advocate Mr. A. Dasgupta is based on three points : (1) that the workman is a Railway employee and he performed the job entrusted to him by the management; (2) That to identify as Railway Employee he was allowed Identity Card; (3) That he worked more than 240 days and protected under Section 25 (f) of the Industrial Dispute Act and the Learned Advocate emphasized that the workman is to be reinstated with back wages.

10. On careful perusal of the documents in the record and evidence, I find there is no appointment letter in relation to appointment of Workman Monoranjan Nunia. There is no proof of advertisement as regards vacancy of substantive post. I find as he was a Labour of the contractor and as he was working in the Railway field the Railway allowed him the Identity Card which cannot be treated as appointment letter as such he can not claim any Railway job. I find there is no evidence that the workman worked 240 days at a stretch.

11. Under the above facts and circumstances I find the workman Sri Monoranjan Nunia is not entitled for any Railway job. His claim is rejected. Prepare the Award accordingly and send it to the Government concerned as per procedure.

H.A. HAZARIKA, Presiding Officer

नई दिल्ली, 8 जनवरी, 2007

का.आ. 260.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ़ ट्रान्स्वोर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण इरनाकुलम, कोची के पंचाट (संदर्भ संख्या 131/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-2007 को प्राप्त हुआ था।

[सं. एल-12012/416/2001-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2007

S.O. 260.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 131/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam, Kochi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Travancore and their workman, which was received by the Central Government on 5-1-2007.

[No. L-12012/416/2001-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT ERNAKULAM

PRESENT : Shri P.L. Norbert, B.A., L.L.B., Presiding
Officer

(Wednesday the 13th day of December,
2006/22nd Agrayana, 1928)

I.D. No. 131/2006

(I.D. No. 15/2002 of Industrial Tribunal, Kollam)

Workman : P.A. Joseph,
Kadathanazhikathu,
Kavandu P.O. Kollam-3,
Adv. Radhakrishnan Nair.

Management : The Managing Director,
State Bank of Travancore,
Head Office Poojappura,
Thiruvananthapuram-695 012
Adv. P. Ramakrishnan.

AWARD

This is a reference made by Central Government under Section 10 (1) (d) of Industrial Disputes Act, 1947 for adjudication. The reference is :—

“Whether the action of the management of State Bank of Travancore in relation to their Civil Station Branch Kollam in dismissing the services of

Shri P.A. Joseph, Head Cashier from 21-5-1992 is justified? If not, what relief the workman concerned is entitled to ?”

2. The reference was made to Industrial Tribunal, Kollam. Later it was transferred to this court in September, 2006 as per the order of the Hon'ble High Court. The facts of the case in brief are as follows:—

The worker, Shri P. A. Joseph was Head Cashier at Kollam Civil Kollam Station Branch of the State Bank of Travancore. While so, on certain allegations of misconduct he was chargesheeted on 12-12-1990. Thereafter a domestic enquiry was conducted and the worker was found guilty of 6 out of 8 charges which included misappropriation of money and forgery of documents. The Disciplinary Authority imposed a punishment of dismissal. The workman challenges the findings and the punishment on the grounds that the principles of natural justice were not complied, that he was not given adequate opportunity to defend the charges and that the enquiry officer nursed a biased attitude towards him. He also contends that the Disciplinary Authority has not properly assessed the evidence before he accepted the report of Enquiry Officer and has not considered the mitigating circumstances of the worker while imposing a shockingly disproportionate punishment. The management, on the other hand, denied all the allegation of the worker and contended that all the procedural formalities of domestic enquiry were followed by the Enquiry Officer and principles of natural justice were complied by him. Every opportunity was given to the worker to defend the case and the punishment is in proportion to the gravity of the charges.

3. Before the Industrial Tribunal, Kollam the Enquiry Officer was examined as MW1 and enquiry files were marked as Ext. M1, M1 (A) & M1 (B). Thereafter a preliminary order was passed by Industrial Tribunal, Kollam on 18-2-2006 regarding the validity of enquiry. The enquiry was found to be valid. The Tribunal also found that out of 8 charges though the Enquiry Officer found charges 2, 3, 5, 6, 7 & 8 as proved, except charges 5, 6 & 8, other charges were not made out as per the materials on record. Hence all except charges 5, 6 & 8 were vacated by Industrial Tribunal, Kollam in the preliminary order. Thereafter no evidence was adduced on either side either before Industrial Tribunal, Kollam or before this forum. Once the enquiry is found to be valid the Court need only look into the materials available on record and no further evidence is taken. At any rate, both parties have not adduced any further evidence after the preliminary order. Even the merits of the findings of Enquiry Officer were gone into by the Industrial Tribunal, Kollam. So what remains to be considered at this final stage of the adjudication is only the proportionality of the punishment.

4. It was argued by the learned counsel for the worker that on the same set of facts and allegations a criminal case was registered against the worker which ended in acquittal. Hence the disciplinary proceedings too should end in acquittal. To support his contention the learned counsel

relied on G.M. Tank V. State of Gujarat AIR 2006 SC 2129 (2 Judge Bench Decision). In that case, the appellant before the Hon'ble Supreme Court was in service of the State from 1953 as Overseer. On the charges of possessing wealth in disproportion to his known sources of income there was a departmental enquiry and a criminal proceeding. The criminal proceedings ended in acquittal. Therefore he sought exoneration in the disciplinary proceedings. It was held in para 32 of the judgement as follows:—

"In our opinion, such facts and evidence in the department as well as criminal proceedings were the same without there being any iota of difference, the appellant should succeed. The distinction which is usually proved between the departmental and criminal proceedings on the basis of the approach and burden of proof would not be applicable in the instant case. Though finding recorded in the domestic enquiry was found to be valid by the Courts below, when there was an honourable acquittal of the employee during the pendency of the proceedings challenging the dismissal, the same requires to be taken note of and the decision in Paul Anthony's case (supra) will apply. We, therefore, hold that the appeal filed by the appellant deserves to be allowed."

But it is to be noted that the facts and evidence in both the departmental as well as criminal proceedings were the same without even an iota of difference. It is not so, so far as the present case is concerned. Before the Chief Judicial Magistrate Court, Kollam 8 witnesses were examined. While, before the enquiry officer 13 witnesses were examined. Out of the witnesses examined before the Chief Judicial Magistrate, only 3 were examined before enquiry officer. They are, Y. Thankachan (Branch Manager of the Bank), M.K. Noor Mohammed (another Branch Manager) and D. Somanathan (Managing Partner of M/s. Sarathy Motors). Remaining 10 witnesses who were examined before the enquiry officer are different. Therefore though the allegations are same and facts are same, the evidence adduced before the two forums are different. Therefore the decision referred above has no application. It is relevant to note another judgement of Hon'ble Supreme Court (2 Judge Bench decision) in Chairman and Managing Director, United Commercial Bank v.P.C. Kakkar (2003) 4 SCC 364 paragraph 15 (relevant portion):

15. "Acquittal in the criminal case is not determinative of the commission of misconduct or otherwise, and it is open to the authorities to proceed with the disciplinary proceedings, notwithstanding acquittal in the criminal case. It per se would not entitle the employee to claim immunity from the proceedings. At the most the factum of acquittal may be a circumstance to be considered while awarding punishment. It would depend upon the facts of each case and even that cannot have universal application."

5. In the light of the above observations of Hon'ble Supreme Court the contention of the worker that since

criminal case ended in acquittal, he should be discharged in the disciplinary proceedings, cannot stand. Therefore, what remains to be considered is whether the punishment is shockingly disproportionate to the gravity of the guilt.

6. The charges leveled against the worker as seen from Ext. M1 file are :—

1. While he was working as Head Cashier of Kollam C.S. Branch of the bank he removed two bangles from the ornaments delivered to him as security for a gold loan (No. 101/90) by Sri. Jayachandran Nair, Valiyazhikathu house, Kureepuzha, Kavanad.
2. When a gold loan 185/90 for Rs. 4,800 was granted to Smt. Mercy, Soni Bhawan, Kavanad he made her believe that Rs. 4000 was granted as required by her by issuing a forged gold loan token of Rs. 4000 to her and misappropriated the difference in the loan amount of Rs. 800.
3. He misused his position as Head Cashier of the branch and got sanctioned 33 gold loans/agricultural loans in the name of Smt. Tressa, his wife, Sri Harish, his son, Kum. Carmel Rani, his daughter and a few of his close relatives.
4. He misused his position as Head Cashier and joint custodian by introducing merely 31% of the loans under conventional and agricultural gold loans mentioned at the branch. Out of the 391 gold loans outstanding on 14th November, 1990, 123 were introduced by him.
5. He did not purchase the vehicle with the loan of Rs. 15,000 granted by the bank for purchase of one Bajaj KL 100 RTZ Motor Cycle availed by him on 6-4-1990. The proforma invoice of M/s. Sarathy Motors, Pallimukku, Kollam was submitted and payment was made by means of office cheque. But the registration book of the vehicle was not produced. On 31-7-1990 he availed a loan of Rs. 18,000 from M/s. Bajaj Auto Finance Ltd., Pune through M/s. Sarathy Motors under their hire purchase scheme. When he was asked to produce the RC book of the vehicle financed by the bank he obliterated the hire purchase charge on the relevant page of the R.C. Book of the vehicle purchased with finance availed from M/s. Bajaj Auto Finance Ltd., Pune through M/s. Sarathy Motors and submitted a photocopy to make the authorities believe that there was no charge on the vehicle KL 2.3790, thereby he forged the document to defraud the bank.
6. On 9-4-1990 he paid cash for the office cheque of Rs. 18,973.50 favouring M/s. Sarathy Motors, Pallimukku, Kollam across the counter with his introduction to some unauthorized person and later it turned out that the seal and signature of the firms were forged. He misappropriated the amount of Rs. 18,973.50 by not paying the purchase price of the Motor Cycle to M/s. Sarathy Motors and defrauded the bank.

7. He availed a consumer loan of Rs. 20,000 for purchasing furniture worth Rs. 22,250 from M/s. Soumya Furniture Mart, Neendakara. Office cheque for Rs. 20,000 bearing No. 352228 dated 3-7-1989 was paid cross the counter on 1-8-1989 and he misappropriated Rs. 16,000 as he paid only Rs. 4000 to Sri Omanakuttan Pillai proprietor of the firm on that date.
8. He furnished his personal gurantee for (i) a loan of Rs. 90,000 taken from Anandavalleeswaram (Quilon) Branch of the bank by his wife for purchasing a fishing boat (ii) another loan of Rs. 20000 for repairing the boat availed from Indian Bank Ltd. Quilon by his wife and (iii) a loan of Rs. 20,000 availed by on Sri Marydasan from Catholic Syrian Bank Ltd., Quilon. He had not obtained prior permission from the bank before furnishing gurantee for third parties.

7. The enquiry officer found the worker guilty of charges except 1 and 4. The disciplinary authority accepted the findings of the enquiry officer and proposed a punishment as follows:—

1. 'Dismissal' for misappropriating a portion of the money advanced to a customer (Charge No. 2).
2. 'Withdrawal of special allowance permanently' for misusing the position as Head Cashier and for getting loans sanctioned in the names of relatives (Charge No. 3).
3. Dismissal for not purchasing the vehicle by the conveyance loan sanction by the bank and producing false documents with intention to defraud the bank (Charge No. 5).
4. Dismissal for misappropriating conveyance loan amount by fraudulent means (Charge No. 6).
5. Stoppage of his next increment with cumulative effect for misappropriating a portion of the consumer loan (Charge No. 7).
6. Censure for furnishing personal gurantee for loans of friends and relatives without obtaining prior permission from the bank (Charge No. 8).

8. The delinquent submitted an explanation regarding proposed punishment. But it was not acceptable to disciplinary authority and hence a final order was passed by the disciplinary authority 21-5-1992 by which the worker was dismissed from service. An appeal submitted to the Deputy General Manager was dismissed on 4-9-1992. I have already mentioned that in the preliminary order Industrial Tribunal, Kollam had found that charges 5, 6 and 8 were made out. They are major misconduct as per clause 19.5 of the Bipartite Settlement of 1966. The 5th charge is that the worker had availed a vehicle loan but had not purchased the vehicle. At the same time he had availed another loan from a private financier for the same purpose. Hypothecation in favour of private financier noted in R.C. Book was obliterated and then a photostate copy of RC book was

taken and furnished to the bank to make it appear that the vehicle was not hypothecated to any other financial institution than bank. The loan availed from bank was not given to M/s. Sarathy Motors from whom the vehicle was purchased, but misappropriated by the worker. The amount was not repaid to the bank either. Charge No. 6 says that a cheque in favour of the firm, M/s. Sarathy Motors, Kollam was honoured and paid to an unauthorized person who was introduced by the worker as an employee from M/s. Sarathy Motors and misappropriated that amount. The seal and signature of M/s. Sarathy Motors in the cheque were forged by the worker. The 8th charge is that the worker stood guarantee for loans availed by his wife from different banks and another loan availed by his nephew from yet another bank without permission of the employer of the worker. The punishment proposed by the disciplinary authority for charges 5, 6 and 8 were - 'dismissal' for charges 5 and 6 and 'censure' for Charge No. 8. The disciplinary authority had proposed punishment for 6 charges found by the enquiry officer. In view of major punishment of dismissal minor punishments were not imposed. The allegation in charges 5 and 6 are serious and not casual. He had not only misappropriated money, but defrauded the bank and M/s. Sarathy Motors and had forged seal and signature of the firm M/s. Sarathy Motors. These charges cannot be treated lightly by an employer. The bank being a financial institution the trust of the customers is of paramount importance.

The worker being a Head Cashier of the bank the charge of misappropriation of money is bound to create ripples of mistrust among customers. Therefore the bank cannot be found fault for imposing the major punishment of dismissal. The mitigating circumstances put forward by the worker in his explanation to the proposed punishment, before the disciplinary authority as well as before the appellate authority, were that he was the sole bread-winner of his family consisting of wife, children and parents. Considering the gravity of the offence they cannot be considered as extenuating circumstances to reduce the punishment. It is held in 'Chairman and Managing Director, United Commercial Bank' case referred supra that it is not enough to mention that the punishment is shockingly disproportionate, the court is bound to give reasons for reducing the punishment. The observation is contained in para 15 of the judgement:

15. "It needs no emphasis that when a court feels that the punishment is shockingly disproportionate, it must record reasons for coming to such a conclusion. Mere expression that the punishment is shockingly disproportionate would not meet the requirement of law. Even in respect of administrative orders Lord Denning, M.R. in *Breen v. Amalgamated Engg. Union* observed: (All ER p.1154) "The giving of reasons is one of the fundamentals of good administration." In *Alexander Machinery* (Dudley)

Ltd. v. Crabtree it was observed: "Failure to give reasons amounts to denial of justice. Reasons are like links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at." Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance."

9. Coming to the case on hand I find no reasons to interfere with the punishment. The misconduct is grave in nature and the fact that family depends on him for financial support is not a mitigating circumstance to reduce the punishment.

10. In the result, an award is passed finding that the action of the management in dismissing Shri P.A. Joseph from service w.e.f 21-5-1992 is justified. No cost. The award will take effect one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 13th day of December, 2006.

P.L. NORBERT, Presiding Officer

APPENDIX

Witness for the Workman	: Nil
Witness for the Management	:
MWI - Shri M. Jaikurar	
Exhibits for the Workman	: Nil
Exhibits for the management	:
MI	—Domestic Enquiry File.
MI(A)	—Book No. II -Proceedings of Domestic Enquiry.
MI(B)	—Book No. I-Proceedings of Domestic Enquiry.

नई दिल्ली, 8 जनवरी, 2007

का.आ. 261.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रमन्यायालय-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 369/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-2007 को प्राप्त हुआ था।

[सं. एल-12012/25/1989-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2007

S.O. 261.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 369/2005) of the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Patiala and their workmen, which was received by the Central Government on 05-01-2007.

[No. L-12012/25/1989-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

PRESIDING OFFICER : SHRI KULDIP SINGH

CASE NO. I.D.No 369/2005

Registered on 18-08-2005

Date of Decision 24-11-2006

Harbans Singh, C/o. Shri D. L. Sikka, State

Bank of Patiala, Rohtak

....Petitioner

Versus

State Bank of Patiala the Mall,
Patiala

....Respondent

APPEARANCE

For the Workman : Mr. Raj Kaushik Advocate

For the Management : Mr. N.K Zakhmi Advocate

AWARD

The present dispute has been referred by the Govt. of India for the adjudication of this Tribunal vide their number L-12012/25/89- IR(B-I) dated 30th Nov., 1989:

"whether the action of the Management of State Bank of Patiala in relation to their Sirsa branch in dismissing Shri Harbans Singh. Daftri from services w.e.f. 17 th Dec. 1987 is just, fair and legal? If not what relief the workman concerned is entitled to?"

The notice of the reference was given to the parties. The workman appeared in person whereas the Management appears through the Counsel. At a later stage the workman

also appeared through Counsel. He filed Claim Petition to which the Management filed the Written Statement. The workman filed replication and the affidavit in support of his claim. The Management filed the affidavit of Shri Ashok Kumar Mehta, their Deputy Manager besides that of D.N Garg who had acted as an inquiry authority. The management also placed on record photo copies of the inquiry proceedings and that of number of documents. The workman appeared as a witness in the case whereas the Management produced Shri A.K Mehta as well as D.N Garg as witnesses in support of their claim.

It may be noted here that during the course of proceedings in this Tribunal the workman expired on 11th August, 2004, and his Legal Representatives i.e. two sons and three daughters made an application for bringing them on record as the LR's of the deceased workman. The application made by them was allowed and the LR's appeared through their Counsel. Before that the workman had submitted the Written Arguments. The Management however argued in the matter through their Counsel.

I have gone through the file and have also considered the submissions made by the parties.

The claim of the workman is that the Management had initiated an inquiry against him on false, fabricated and wrong charges that he had received an amount of Rs. 2000 excess from the Cashier of the Bank and that he remained absent from duty; that the disciplinary authority did not adjudicate upon the merits of the case. The Manager of Sirsa Branch of Bank was prejudiced against the workman since the workman did not oblige him as a domestic servant; that the inquiry officer misused his powers, rushed through the inquiry proceedings proving the charge against the workman without providing proper opportunity to the workman to defend himself to engaged the representatives to cross-examine the witnesses of the management, therefore, the inquiry held was biased and was to support the cause of the Bank. According to the workman, it was premeditated and planned to dismiss the workman, therefore, their action of dispensing with the services of the workman was illegal, arbitrary and against the principles of natural justice. Moreover the punishment awarded was disproportionate to the misconduct alleged against the workman, who is innocent but was made to suffer. As a result the workman and his family has been thrown on the road. That the workman has no other source of livelihood. He has prayed for setting aside the punishment awarded to him and reinstate him in service alongwith all service benefits including back wages.

The Management has opposed the claim of the workman in their Written Statement. It is their case that the workman was charged with serious acts of misconduct and an inquiry in that regard was held in which the workman was given full opportunity to prove his innocence, but on the conclusions of the inquiry, it was found that the workman was guilty of serious acts of misconducts.

The disciplinary authority considered the report of the inquiry and the record produced and came to the conclusions that the charges are proved, therefore, he proposed the punishment to the workman. The notice thereof was given to the workman to explain his position. The workman was also provided personal hearing alongwith his representative. The Disciplinary authority however, did not feel convinced with the stand of the workman and passed the punishment of dismissal from service against the workman. The workman filed an appeal against the order of the disciplinary authority, before the appellate authority, but failed to get the order changed. The Appellate authority was convinced that the acts of the workman were so grave and prejudicial to the interest of the Bank that he could not be retained in the service and he rejected the appeal. It is upon the notice of demand of the workman that the present reference was sent to this Tribunal, to find out whether the action of the Management State Bank of Patiala, in relation to their Sirsa Branch, in dismissing Shri Harbans Singh, Daftri from services w.e.f. 17th Dec., 1987 was just, fair and legal and if not to what relief the workman concerned was entitled to.

From the pleadings of the parties it is clear that it is a case of domestic inquiry, therefore, the first thing to be considered is whether the Management had held a fair and proper inquiry in the matter or not. In this case the parties have also led the evidence, for and against their respective cases. The next thing to be seen is whether the Management has produced the evidence sufficient to hold that their action, in dismissing the workman from service was just and legal. In order to test whether the inquiry held was fair and proper it has to be kept in mind whether the Management had followed the procedure as laid down in the rules, regulations and standing orders. Besides it has also to be seen whether the Management followed the principles of natural justice in conducting the inquiry.

The High Court of Karnataka in the case of G.R. Venkateshwara Reddy V/s Karnataka Road Transportation reported as (1995) 1 LLJ 1011 has laid down that the requirement of reasonable procedure to be followed in holding domestic inquiries would mean: (a) the employee was informed of the exact charges which he was called upon to meet (b) He was given opportunity to explain any material proposed to be used to prove the charges, (c) The evidence of the Management was recorded in presence of the workman who was given opportunity to cross examine the witnesses of the management (d) whether the workman was provided with the copies of the documents relied upon by the management asked for (e) He was also permitted to make inspection of the documents relied upon by the Management and was allowed to produce relevant evidence, both documentary and oral; and He was also given opportunity to get himself examined or to produce witnesses in support of his claim (6) He was further allowed to get summoned relevant documents and

materials, the custody of which was with the employer; (i) He was provided with the copy of the inquiry report and he was also given opportunity to raise objections to the inquiry held in case the inquiry officer was different from the disciplinary authority.

A photo copy of inquiry proceedings is on record. As per the report, the inquiry officer was appointed vide order dated 20th Feb., 1987. He started the inquiry from 4th March, 1987. At the very outset he inquired from the Delinquent official whether he understood as to what was the purpose of the inquiry and the workman replied in affirmative. Next he inquired from the workman as to whether he admits the charges set out against him, but the workman denied the same. Thereupon the inquiry officer directed the presenting officer to proceed with the inquiry and substantiate the charges framed against the workman. According to him the Management produced three witnesses and three documents whereas the workman did not produce any witness or document. He however, inspected the documents produced against him on 19th April, 1986. Giving the detail of the proceedings he stated that in all eight sittings were held, between 4th March, 1984 to 28th March, 1987. According to him Shri D.L. Sikka, the General Secretary of State Bank of Patiala employees Union represented the workman whereas Shri R.L. Kapoor represented the Management in the proceedings. According to the inquiry officer, the inquiry proceedings was adjourned more than once at the request of the workman but ultimately the inquiry proceedings had to be completed ex-parte since the workman did not participate in the inquiry in person or through representative despite due notices.

The workman appeared as a witness in the case. In his statement he admitted that Shri D.L. Sikka had represented him in the inquiry. He further admitted that he had purchased a demand draft of Rs.500 although there were no funds in his account. He admitted the contents of officer's scroll, a copy of which was placed on record. He however, denied to have received excess payment and or had requested for a lenient view. But he admitted his signatures on the proceedings held on 14th July, 1987 and stated that the inquiry was then adjourned to 24th July, 1987. He further admitted that he and his representative had not attended the inquiry on 4th July, 1987 and thereafter, he further admitted that he had received a show cause notice to which he had replied; that he was given personal hearing on 15th Dec., 1987 and the order of his dismissal was passed on 17th Dec., 1987. He also admitted that his appeal was dismissed.

From the statement of the workman it is shown that he had taken part in the inquiry held against him, by the Management. He alongwith his representative took part in the inquiry proceedings on certain dates but thereafter

they disassociated. Neither in writing nor by any evidence the workman has shown that he had plausible reasons not to take part in the further proceedings in the inquiry. He admitted to have the notice of the dates fixed next in the inquiry and even that of decisions taken by the Disciplinary Authority. No doubt he raised a number of grounds against the number of inquiries held against him but he did not utter a word to show that the inquiry held against him was not fair and proper. Rather, by his statement, he contradicted himself that he was not allowed the opportunity to cross examine the witnesses of the Management nor was allowed to produce his own evidence. The fact is that he was served with charge sheet; he was given due notice of the inquiry proceedings. The workman took part in the inquiry proceedings, but later on disassociated with that. It was in these circumstances that the inquiry proceedings were completed in his absence. It is also on record that the Management examined Messrs. S.K. Chug, H.R. Sardana as their witnesses in presence of the workman and he did not cross examine them. He requested for an adjournment. The inquiry officer accepted his request and adjourned the inquiry proceedings, but on the subsequent date also the workman, neither he appeared nor produced his representatives to cross examine the witnesses. From his conduct the inquiry officer was satisfied that the workman was not interested to cross examine the witness for any reason. Despite that the inquiry officer did his duty and put question to the witnesses so as to know the truth.

On 17th August, 1987, the workman admitted under his signatures that he had noted down the proceedings being held on the dates fixed besides on 24th July, 1987. He further admitted to have received the notice for submission of list of witnesses and documents, but he did not produce any and requested for opportunity. The inquiry officer, although had already given two three opportunities to produce the list of documents and further gave him opportunity to file the same by 10th Sep., 1987. The workman was cautioned that the opportunity given will be the last and final. He was further directed to bring along his representatives. The record of the proceedings shows that on the next date fixed for 24th Sep., 1987 neither the workman appeared nor produced his defence representatives. Still the inquiry officer showed indulgence and deferred the proceedings twice in the day but the workman and his defence representative did not appear. Ultimately at 2.30 pm he proceeded with the proceedings after being satisfied that the workman was not sincere in his conduct and that sufficient opportunity has been given to the workman to defend himself. It was in those circumstances that the inquiry was concluded on 24th Sep., 1987.

Now coming to the evidence produced I find that except his own statement, the workman has not produced

any evidence to show that the articles of charges framed against him on 14th Nov., 1986, were false, fabricated and manipulated. The charges against him were that he took a payment of Rs.2050/- from S.K Chug, the Head Cashier of the Management Bank telling him that he has already submitted the withdrawal form for the said amount. Shri Chug, believed him since he was an employee of the Bank. Later on when the withdrawal form was received, it was found that the withdrawal form was only for an amount of Rs.50. Moreover there was only a balance of Rs. 53.09 in the account of the workman. When the matter was noticed the workman had left the Branch by then and did not return on duty on the next day. Later on he paid Rs.2000 back to Shri Chug. The other charge against him was that he had defaulted to obtain prior permission to proceed on leave; that he left the Bank on 22nd August, 1985 at 1.45 pm after taking the payment from Shri Chug without permission and did not report for duty on 23rd August, the next day nor he made any application for leave. He reported back for duty on 24th August and thereby he remained absent from duty. The other allegations against the workman are that in total disregard to the circular of the Bank he obtained withdrawal of Rs.500/- from Mini Secretariat, Jind Branch of the Bank payable at Sirsa, Branch on 22nd March, 1986 without keeping sufficient balance in his account which also amounted to misconduct. The workman has not produced any evidence to show that the charges levelled against him were false and frivolous. Rather as per the report of the inquiry officer the charges were proved against the workman on the basis of the evidence given against him by Shri S.K Chug and S.R Sardana. The inquiry officer was satisfied that the charges were proved against the workman. I think he was well justified to believe so.

After going through the evidence available on record, I am of the opinion that the Management had held a fair and proper inquiry in the case. The workman was served with a charge sheet to which he replied. The Management produced the evidence and also provided the list of the witnesses and documents to the workman to be used against him in the inquiry, well before the beginning of the inquiry. The workman was also provided opportunity to defend himself. He was allowed to produce his defence representative and both of them attended the proceedings on some dates. But later on they disassociated with the inquiry proceedings for the reasons best known to them. The Inquiry Officer took every care to see that the workman took part in the proceedings, but the workman did not corporate. The Inquiry Officer did not allow the objections of the presenting officer adjourned the inquiry on more than two occasions. He categorically made the workman to know that he is required to take part in the inquiry and should produce his defence representative with further caution that in case he did not come, the inquiry shall be held against his ex-parte. These cautions and warnings did

not appear in person or through his representatives. In such a situation the inquiry officer had no option but to conclude the inquiry Ex-parte. From the inquiry proceedings I find that the allegations of the workman about the fairness of the inquiry are baseless and without any justification. There is no basis for him to claim that the payment of Rs. 2000 by Shri S.K Chug to the workman was a private affair between the two since the money was not paid from the Bank, by the Head Cashier rather from his own pocket. In his appeal the workman admitted that he had submitted the withdrawal form for Rs.2050 but he had done so just to save the Head Cashier, who will believe him? There is also no evidence to show that the Head Cashier was in trouble and the workman came to his rescue. There is also no evidence to show that the workman had submitted any application for leave on 28th August, 1985. His mere saying that he had made an application is not sufficient. In his statement he did not even allege that he had submitted the application for leave and the same had been handed over to such and such officers of the Bank. For this reason his this claim is also rejected. There is also no justification of the workman to claim that the Management had received Rs.500 back alongwith the interest, therefore, the charges made against him to be treated not to have been proved. I fail to understand as to how the workman thinks that it was open for him to have taken money from the Bank without any justification or credit in his account and the maximum of it could be that he was liable to the return of money with the interest. If this is allowed then how the money of the depositors can remain safe. The other grounds taken by the workman is also without any support from the evidence. No doubt there is no allegation that the workman was involved in such acts earlier, but that itself is not sufficient to say that the misconduct of the workman was excusable. In the finance institutions what is important is the trust and if mistrust is committed by any of the officials of the respective institution then how that progress. The money kept in such an institution is not safe. The reputation of the institution is increased and destroyed by official and no institution can afford to retain an official who commits mistrust. After carefully appreciating the written Arguments submitted by the workman argument of Counsel for the Management and after going through the record of the file I am of the opinion that the action of the Management of State Bank of Patiala, in dismissing the services of the workman on 17th Dec., 1987 was just fair and legal. The punishment awarded was not disproportionate to the misconduct proved against him, therefore, the workman is not entitled to any relief. Let a copy of this award be sent to the appropriate govt, for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 8 जनवरी, 2007

का.आ. 262.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लार्ड कृष्णा बैंक लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक, अधिकरण/श्रम न्यायालय, (कोची), इरनाकुलम के पंचाट (संदर्भ संख्या 92/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-2007 को प्राप्त हुआ था।

[सं एल-12012/455/2001-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2007

S.O. 262.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 92/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Lord Krishna Bank Ltd., and their workmen, which was received by the Central Government on 5-1-2007.

[No. L-12012/455/2001-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT:

Shri P. L. NORBERT, B.A., L.L.B., Presiding Officer

(Monday, the 11th day of December, 2006)

I. D. 92/2006

(I. D. 6/2002 of Labour Court, Ernakulam)

Workman : N. Venkateswara Pai
S/o. Late N. Narayana Pai,
31/2274, Vysakh, Jubilee Road,
Thammanam, Kochi-682 032.

Adv. Shri T. Ramaprasad Unni

Management : The Chairman,
Lord Krishna Bank Ltd.,
Administrative Office,
Kaloar, Kochi-682 017.

Adv. Shri M. Pathrose Mathai

AWARD

1. This is a reference made by Central Government under Section 10 (1) (d) of Industrial Disputes Act, 1947 for adjudication. The reference is:—

“Whether the action of the management of Lord Krishna Bank Ltd. in terminating the services

of Sri Venkateswara Pai is justified? If not, what relief the applicant concerned is entitled?”

2. The claimant, Sri N. Venkateswara Pai was a peon, of Lord Krishna Bank Ltd. at its M.G. Road Branch from 20-2-2001 to 5-9-2001. According to him he had worked for more than 188 days continuously. His service was terminated in order to accommodate another person by name Shri Santhosh Kumar. The appointment of the claimant was to a permanent vacancy. No notice or compensation was given to him at the time of termination. It is in gross violation of principles of natural justice. No reasons were given for terminating his service. Hence he prays for reinstatement.

3. According to the management the claimant was a temporary peon on daily wage basis for a limited period. He worked only for a total period of 154 days. His remuneration per day was Rs. 60. He was not posted to a permanent vacancy of peon. Due to temporary increase in work he was taken for short spells. The bank has not terminated his service. It is denied that the claimant was disengaged for the purpose of accommodating one Santhosh Kumar. The latter was working in other branches prior to the service of claimant. The claimant is not entitled to get any benefit as he was engaged on daily wage basis for temporary work only for 154 days. He is not entitled to any relief.

4. The only point for consideration is :

“Whether the termination is legal?”

The evidence consists of oral testimony of WW1 to 3 and documentary evidence of Exts. W1 to 5 on the side of claimant and Ext. M1 series on the side of management.

5. The Point :

It is an admitted case of the worker that he had worked as daily wage employee for a total period of 188 days from 20-2-2001 to 5-9-2001. His service was stopped by the bank thereafter. According to the worker this is in violation of S-25F of I.D. Act. He was neither given a notice nor compensation at the time of termination in tune with S-25F of I.D. Act. But the management does not admit that he had worked upto 188 days. According to them he had worked for a lesser period of 154 days, but on daily wage basis.

S-25F reads :

“No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until —

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has

expired, or the workman has been paid in lieu of such notice; wages for the period of the notice; ...

- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen day's average pay (for every completed year of continuous service) or any part thereof in excess of six months; "

As per the said provision the worker has to work for a continuous period of not less than one year under an employer in order to get the benefits mentioned in sub-clauses (a) and (b) of that Section. Even if the claimant is a worker within the meaning of S- 2(s) of I.D. Act he cannot get the benefit of S-25F (a) and (b) unless he has put in continuous service of one year or 240 days. Admittedly, he has done work for a lesser period of 188 days only. Therefore there is no question of giving him benefit of S-25F by either issuing a notice of termination or in lieu of that, one month's wages and 15 days' wages for every completed year of service or part of it. Hence the contention of the claimant that there is violation of the provisions of I.D. Act, cannot be countenanced.

6. However, as per Sastry Award of the year 1953, a Govt. of India publication 'on the Industrial Disputes between certain Banking Companies and Their Workmen' page 146, para 522 (4), a notice has to be given before termination. It reads :—

"the service of any employee other than a permanent employee or probationer may be terminated and he may leave service after 14 days notice. If such employee leaves service without giving such notice he shall be liable for a week's pay (including all allowances)."

Para 524 (1) reads :

"Temporary employees who are engaged for indefinite periods shall be entitled to one month's pay and allowances. Where, however, temporary employees were engaged for definite period which have been mentioned in their appointment letters no compensation will be payable."

In this case the claimant was engaged not on the basis of an appointment order, but on daily wage basis. The appointment was not for any definite period. After his service for 188 days the bank stopped his service without issuing any termination order. Since the worker was engaged for an indefinite period, as per Sastry Award para 522 (4) he is entitled to a week's pay in lieu of 14 days notice and as per para 524 (1) for one month's pay and allowances. However he has no right to claim reinstatement as the termination was not in violation of provisions of I.D. Act. The provision under Sastri Award referred supra is for

the purpose of giving temporary relief to a casual worker or a temporary employee for leaving the institution all of a sudden, the violation of which will not confer on him any right for reinstatement.

7. The worker has also claimed for regularization in service. But the claim has no merits. It is the discretion of the management to absorb a person. So far as the claimant is concerned, he has not even put in 240 days of continuous service to earn or acquire any right under the provisions of I.D. Act. Such a person, as of right, cannot even raise a claim for regularization. The bank might have regularized temporary workers who had put in less than 240 days. But it is purely the discretion of the management. It is no doubt true that by Ext. W3 and 4 letters of AGM to CGM of the bank, the former had recommended the worker for regularization. But there was no favourable response from CGM. Ext. W5 is a public notice published by employees' union. It is mentioned that some temporary workers were regularized and others were not considered by the management for the purpose of absorption. It is not more than a protest by the union to absorb all temporary employees whether they have worked for more than one year or less than one year. Any protest or clamour for rights by the union cannot mature into a right. For the reasons stated above I find that the petitioner is not entitled for absorption either. I have already found that there is no violation of S-25F of I.D. Act. However, Sastri Award para 522 (4) and 524 (1) are violated. To that extent the termination is illegal. But he has no right for reinstatement or regularization, but only for compensation.

8 In the result, an award is passed finding that the action of the management in terminating the service of the worker, Shri N. Venkateswara Pai without giving him notice or compensation, as per Sastry Award, is illegal to that extent and he is entitled for a week's pay as per para 522 (4) and one month's pay and allowances as per para 524 (1) of Sastry Award. However the worker is not entitled for reinstatement or benefits under section-25-F of I.D. Act. No cost. The award will take effect one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 11th day of December, 2006.

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the Workman :—

WW1	N. Venkateswara Pai.
WW2	K.C. Jose.
WW3	K. Subbayya Pillai.

Witness for the Management:—

Nil.

Exhibits for the Workman :

- W1 - Photostat copy of authorization letter dated 17-4-2001.
- W1(a) - Photostat copy of authorization letter dated 23-4-2001.
- W1(b) - Photostat copy of authorization letter dated 23-4-2001
- W2 - Photostat copy of application dated 18-5-2001 submitted by Sri N. Venkateswara Pai to the AGM, Personnel, Lord Krishna Bank Ltd.
- W3 - Photostat copy of letter dated 12-7-2001 issued by the AGM, M.G. Road Branch to the CGM, Lord Krishna Bank Ltd.
- W4 - Photostat copy of letter dated 22-8-2001 issued by the AGM to CGM
- W5 - dated 17-12-2001 published by Lord Krishna Bank Employees Union

Exhibits for the Management:

MI series (24 Nos)—Vouchers from 3-3-2001 to 7-9-2001.

नई दिल्ली, 8 जनवरी, 2007

का.आ. 263.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलौर के पंचाट (संदर्भ संख्या 43/05) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-2007 को प्राप्त हुआ था।

[सं. एल-12012/290/99-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2007

S.O. 263.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/05) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and

their workmen, which was received by the Central Government on 5-1-2007.

[No. L-12012/290/99-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
BANGALORE**

Dated 20th December, 2006

Present :

Shri A. R. Siddiqui Presiding Officer

C.R. No. 43/05

I PARTY

Shri Abdul Hameed,
S/o Shri Grousemoddin
Inamdar, C/o Shri T. N.
Hesarur, Dr. Zakeer
Hussain Colony, GADAG

II PARTY

The Asstt. General Manager,
State Bank of India,
Region No. 11,
Zonal Officer, Keshwapur,
HUBLI

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section 2 A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/290/99-IR (B-I) dated 21st September, 2005 for adjudication on the following Schedule :

SCHEDULE

“Whether the action of the Management of State Bank of India, Zonal Office, Keshwapur, Hubli, in dismissing the services of Shri Abdul Hameed w.e.f. 16-1-1993 is justified or not ? If not, what relief he is entitled to and from which date ?”

2. After the receipt of the reference from the Government, notices by way of RPAD were taken against the first party as well as the management. On 7-2-2006, the management made appearance through counsel and whereas, notice issued to the first party returned with the endorsement “address not known”. Once again RPAD notice was issued to the first party and that came to be served upon him personally vide acknowledgement due received by this tribunal. However, he remained absent and an opportunity was given to him finally to file his claim statement after adjourning the case more than four times. Ultimately on 18-8-2006, when the first party remained absent and failed to file his claim statement, the matter came to be posted for filing of Counter Statement if any, by the management. The management also did not file its Counter Statement. Therefore, the matter is posted this day/for award.

3. Therefore, keeping in view the conduct of the first party in not appearing before this tribunal despite the service of notice and in not prosecuting the proceedings after having raised the dispute resulting into the present reference, what appears is that he has lost interest in the matter. Though as per the reference schedule, it was for the management to justify its action in dismissing the services of the first party but there being no claim statement filed by the first party challenging the dismissal order making out the grounds in his favour against the dismissal order, the management cannot be called upon to discharge its burden as per the reference schedule. In the result, the reference must fail for the reason that the first party is no more interested in the prosecution of the proceedings and hence the following award:

AWARD

The reference stands dismissed. No costs.

(Dictated to PA transcribed by her corrected and signed by me on 20th December, 2006).

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 8 जनवरी, 2007

का.आ. 264.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ हैदराबाद के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 26/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-2007 को प्राप्त हुआ था।

[सं. एल-12012/207/2004-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2007

S.O., 264.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2005) of the Central Government Industrial Tribunal/Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Hyderabad and their workmen, which was received by the Central Government on 5-1-2007.

[No. L-12012/207/2004-IR (B-1)]

AJAY KUMAR, Desk Officer

**BEFORE SHRI A.N. YADAV, PRESIDING
OFFICER, CGIT-CUM-LABOUR COURT,
NAGPUR**

Case No. CGIT/NGP/ Date 22-12-2006
26/2005

Petitioner : Shri Babasaheb, Galpu Telange,
Party No. 1 P.O. Swargaon, Tah. Bhoom,
Dist. Osmanabad [MS]

Versus

Respondent : The Regional Manager,
Party No. 2 State Bank of Hyderabad,
Regional Office, Beed, Dist. Beed [MS]

AWARD

[Dated 22nd December, 2006]

1. The Central Government after satisfying the existence of disputes between Shri Babasaheb Galpu Telange, P.O. Swargaon, Tah. Bhoom, Dist. Osmanabad [MS] Party No. 1 and The Regional Manager, State Bank of Hyderabad, Regional Office, Beed, Dist. Beed [MS]. Party No. 2 referred the same for adjudication to this Tribunal vide its Letter No. L-12012/207/2004-IR (B-1)] Dt. 31-03-2005 under clause (d) of Sub section (1) and Sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) with the following schedule.

2. "Whether the action of the Management of State Bank of Hyderabad, Beed Distt. Beed [MS]" in terminating the services of Shri Babasaheb Galpu Telange, Casual Chowkidar, Paranda Branch of the Bank w.e.f. 16-05-2003 is justified? If not, to what relief the workman concerned is entitled?

3. The dispute came for the hearing before the Tribunal today on 22-12-2006. On behalf of the management its counsel is present. Nobody appeared for the petitioner. The perusal of record indicates that till today even the Statement of Claim was not filed. The notices were issued on 10-06-2005, but nobody appeared for the petitioner or the petitioner in person. It seems that he is not interested in prosecuting the case and there are no reason to keep it pending only for filing of the claim. Hence. It is disposed of for the default of the petitioner. It is for default.

Dated : 22-12-2006. A. N. YADAV, Presiding Officer.

नई दिल्ली, 8 जनवरी, 2007

का. आ. 265.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दी लक्ष्मी विलास बैंक लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 38/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-2007 को प्राप्त हुआ था।

[सं. एल-12012/89/2006-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2007

S.O. 265.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/2006) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Lakshmi Vilas Bank Ltd. and their

workmen, which was received by the Central Government on 05-01-2007.

[No. L-12012/89/2006-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 30th November, 2006

Present : K. Jayaraman, Presiding Officer

Industrial Dispute No. 38/2006

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of the Lakshmi Vilas Bank Ltd., and their workmen)

BETWEEN

Sri M. Raghavan : I Party/Petitioner

AND

The Assistant General : II Party/Management
Manager,

The Lakshmi Vilas Bank Ltd.,
Karur.

Appearance :

For the Petitioner : None

For the Management : M/s. T.S. Gopalan & Co.,
Advocates

AWARD

The Central Government, Ministry of Labour *vide* Order No. L-12012/89/2006-IR(B-I) dated 31-07-2006 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

“Whether the punishment of removal from service imposed on Shri M. Raghavan by the management of Lakshmi Vilas Bank Ltd., Karur is legal and justified? If not, to what relief the workman is entitled to?”

2. After the receipt of the reference, this dispute was taken on file as I. D. No. 38/2006 and issued notices to both parties. Even though two notices were sent to the Petitioner, the Petitioner has not appeared before this Court either by person or through his representative. Therefore, the Petitioner was called absent and set *ex-parte*. On behalf of the Respondent, their advocates appeared before this Tribunal.

3. Since the Petitioner was set *ex-parte*, a memo of objection was filed by the Respondent/Management wherein the Assistant General Manager of the Respondent/Bank alleged that the Petitioner was employed as sub-staff Tuticorin branch of the Respondent/Bank. On 16-11-2002 when the Manager was busy in attending to customers in the Manager's cabin, he had kept the safe keys and cup board keys in the Accountant's table drawer.

Taking advantage of the absence of the Manager in the Accountant's table, the Petitioner had stealthily removed the safe keys from the Accountant's table drawer without the knowledge or instruction from the Manager. Further, the Petitioner entered the safe room without explicit permission of the Manager and removed his staff housing loan documents from the safe. The Petitioner went on leave on 18-11-2002 and 19-11-2002. On 18-11-2002, when the Manager was arranging the loan documents, he found that staff housing loan documents of the Petitioner were missing. When the Petitioner joined duty on 20-11-02 and he was questioned, he handed over his staff housing loan documents to the Manager. On 4-1-2003 a charge sheet was issued to the Petitioner making reference to his stealthy removal of keys, his unauthorised entry into safe room and also removal of his staff housing loan documents. The Petitioner was asked to appear for an enquiry, but despite the enquiry notice having been published in newspaper he did not appear for an enquiry. On 21-8-03 and 22-11-03 the enquiry against the Petitioner was conducted in his absence. After examination of witness, the Enquiry Officer gave his report holding that charges against the Petitioner were proved. A copy of the report was sent to the Petitioner. The 2nd show cause notice was issued calling upon him to appear for personal hearing regarding the punishment. On 29-3-2004 the Petitioner appeared and pleaded for excuse. After considering his representation, the orders passed on 19.7.2004 dismissing the Petitioner from service.

4. In order to establish their case, the Respondent has produced copy of charge sheet issued to Petitioner dated 4-1-2003, enquiry proceedings dated 21-8-2003 & 22-11-03, copy of report of Enquiry Officer dated 12-2-04, copy of show cause notice dated 4-3-2004, copy of proceedings of personal hearing dated 29-3-2004 and copy of order of dismissal dated 19-7-2004.

5. In these circumstances, the point for my consideration is—

“To what relief the Petitioner is entitled?”

Point :—

6. In this case, the Petitioner has not appeared before the enquiry and the Petitioner has also not appeared before this Tribunal, even after two notices. Though he has disputed the domestic Tribunal's order, he has not established before this Tribunal that the order passed by the Respondent is not legal and justified. He remained *ex-parte*. Under such circumstances, I find since the Petitioner has not appeared before this Tribunal and established his claim, I find the Petitioner is not entitled to any relief. No Costs.

7. Thus, the reference is disposed of accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 30th November, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

On either side : None

Documents Marked :—

On either side : Nil

नई दिल्ली, 8 जनवरी, 2007

का.आ. 266.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 75/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05-01-2007 को प्राप्त हुआ था।

[सं एल-12012/27/2006-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2007

S.O. 266.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (75/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 05-01-2007.

[No. L-12012/27/2006-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI****Tuesday, the 12th December, 2006****Present : K. Jayaraman, Presiding Officer****Industrial Dispute No. 75/2006**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their workmen)

BETWEEN

Sri A. Thangavelu : I Party/Petitioner

AND

The Deputy General Manager, : II Party/Management
State Bank of India,
Zonal Office,
Coimbatore.

Appearance :

For the Petitioner : M/s. Balan Haridas,
R. Kamatchi Sundaresan,
Advocates

For the Management : None

AWARD

The Central Government, Ministry of Labour vide Order No. L-12012/27/2006-IR (B-I) dated 7-8-2006 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

“Whether the action of the management of State Bank of India, Coimbatore Branch in imposing punishment of removal from the services of Sri A. Thangavelu is legal and justified? If not, to what relief the workman is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 75/2006 and notices were issued to both the parties. The I Party/Petitioner entered appearance through his advocate, and file Counter Statement. The II Party/Management even though received notices, they have not appeared before this Court nor any representation on their behalf. Therefore, the Respondent was called absent and set ex-parte and evidence was taken on the side of the Petitioner.

3. On the side of the Petitioner, proof of affidavit was filed in which stated that he has been working in the Respondent/Bank for 13 years as Assistant (Accounts & Cash). When he was working as such in Ganesapuram branch of Respondent/Bank, he was kept under suspension by an order dated 23-10-02 and charge sheet was issued on 18-11-2002 and an enquiry was ordered to be conducted against the Petitioner. In which, the Enquiry Officer has given a finding that both charges levelled against the Petitioner have been proved and the Disciplinary Authority after following the due procedure has imposed the punishment of removal from service with superannuation benefits. The charge sheet dated 8-11-2002 contains two charges. The first charge is that the petitioner changed the credit voucher on 9-10-2002 relating to Natarajan Account No. 9/1605 as Balasubramanian Account No. 1/20 and defrauded the amount. The second charge is that the Petitioner was in the habit of borrowing money from customers of branch. The very charge sheet is vague and without any particulars. Even for the second charge, there has been no detail to the allegation namely from which customer he borrowed and when it was borrowed. Therefore, the charge sheet without any particulars is illegal. But, in the enquiry, the Respondent/ Management has come out with a quite new case and had been introduced documents and witnesses of whom there is no reference of any sort in the charge sheet. This is in violation of principles of natural justice and fair play. In the examination of the customer Mr. R. Natarajan or P. Balasubramanian or the investigating officer, the alleged complaint given by the aforesaid two persons have been taken on record in the enquiry. This is yet another violation of principles of natural justice. Therefore, the entire enquiry proceedings and the punishment imposed on the Petitioner is vitiated. A small clerical error which had happened in the normal course of banking is sought to be alleged as defrauding. In stead of

appreciating the efforts taken by the Petitioner to rectify the mistake, unfortunately, the Branch Manager started with hunting and on his own he went in search of Mr. Balasubramaniam and Mr. Natarajan. Further, the Branch Manager strictly asked the Petitioner to give a written statement as dictated by him. He threatened that if the Petitioner does not give such statement as dictated by him, then it will result in serious disciplinary proceedings. Without examining the alleged complainant and without examining the investigating officer, the Enquiry Officer has strangely come to the conclusion that charges framed against the Petitioner have been proved. Even though the Respondent/Management has examined two witnesses with regard to second charge, they have not given any material to substantiate their claim. Further, one of the witnesses have not appeared for cross examination. Therefore, to say that the Petitioner had changed the credit voucher relating to Mr. M. P. Balasubramaniam with an intention to defraud the bank is unfounded. The Enquiry Officer has come to the conclusion that the Petitioner has admitted the guilt, whereas the Respondent/Management has fully known that the so called admission had been extracted from the Petitioner under threat and coercion. Therefore, the enquiry conducted is defective and the Enquiry Officer has given a perverse finding and as such, the enquiry was conducted in an unfair manner. Basing on the perverse findings, the Disciplinary Authority has imposed the extreme punishment of removal from service by his order dated 15-12-2003. Even the appeal preferred by the Petitioner has been rejected without any reason. Hence, for all these reasons, the Petitioner prays to set aside the order dated 16-6-2004 and to reinstate him in service with full back wages, continuity of service and other attendant benefits.

4. In these circumstances the point for my consideration is—

“To what relief the Petitioner is entitled?”

Point :

5. As I have already stated, the Respondent has not appeared before this Court to disprove the claim of the Petitioner nor filed any Counter Statement. The Petitioner alleged that though two charges framed against him in the enquiry, the charges are vague and without any details. The alleged complainants and Mr. M. P. Balasubramaniam and Mr. Natarajan were not examined nor the investigating officer was also examined. The Petitioner further alleged that the Enquiry Officer has relied on the alleged admission made by the Petitioner before the Branch Manager, but the statement was obtained from the Petitioner under threat and coercion. With regard to first charge neither the complainant nor investigation officer was examined and with regard to the second charge no specific allegation was made namely from whom the Petitioner has borrowed the money and how much amount he has borrowed and when he has borrowed were not stated. Under such circumstances, a new case was set up at the time of enquiry, even against the objection raised by the Petitioner and the witnesses who were examined for the second charge have also not given any satisfactory evidence to substantiate

the contention of the Respondent/Management. Under such circumstances, the enquiry was conducted against the principles of natural justice and in an unfair manner. Therefore, he prays that an award may be passed in his favour.

6. Since the Respondent/Management has not appeared before this Court to contradict the contention of the Petitioner, I find the allegations made by the Petitioner are true and I find the Petitioner is entitled to the relief prayed for. Therefore, I direct the Respondent/Management to reinstate the Petitioner into service forthwith with full back wages, continuity of service and other attendant benefits. No Costs.

7. Thus, the reference is disposed of accordingly.

(Dictated to the P. A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 12th December, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:—

For the I Party / Petitioner : Sri A. Thangavelu, WW1

For the II Party / Management : None

Documents Marked :—

For the I Party/Workman : —

Ex. No.	Date	Description
W 1	23-10-02	Xerox copy of the order of suspension.
W 2	18-11-02	Xerox copy of the show Cause Notice
W 3	10-12-02	Xerox copy of the reply given by Petitioner.
W 4	20-12-02	Xerox copy of the enquiry notice.
W 5	29-01-03	Xerox copy of the letter of the Petitioner.
W 6	07-02-03	Xerox copy of the letter of Petitioner.
W 7	26-05-03	Xerox copy of the letter of Enquiry Officer.
W 8	18-08-03	Xerox copy of the letter from Disciplinary Authority enclosing enquiry report.
W 9	Nil	Xerox copy of the exhibits marked by Respondent in Domestic enquiry.
W 10	10-11-03	Xerox copy of the show cause notice.
W 11	27-11-03	Xerox copy of the representation given by Petitioner.
W 12	15-12-03	Xerox copy of the order of punishment.
W 13	16-06-04	Xerox copy of the order of Appellate Authority.
W 14	Nil	Xerox copy of the settlement governing service condition.
W 15	25-03-02	Xerox copy of the order in W.P. No. 7788 of 1995.
W 16	14-07-03	Xerox copy of the defence brief.
W 17	05-09-03	Xerox copy of the statement of defence of Petitioner.
W 18	09-02-04	Xerox copy of the appeal preferred by Petitioner.

For the II Party/Management : Nil

नई दिल्ली, 8 जनवरी, 2007

का.आ. 267.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चैन्नई के पंचाट (संदर्भ संख्या 44/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-2007 को प्राप्त हुआ था।

[सं. एल-12012/97/2005-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 8th January, 2007

S.O. 267.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 44/2005) of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, which was received by the Central Government on 5-1-2007.

[No. L-12012/97/2005-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 6th December, 2006

Present : K. JAYARAMAN,
Presiding Officer

INDUSTRIAL DISPUTE NO. 44/2005

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their workmen]

BETWEEN

Shri R. Subbiah : I Party/Petitioner

And

The Assistant General Manager, : II Pary/Management
State Bank of India, Madurai.

APPEARANCE

For the Petitioner : M/s. D. Naveen Durai Babu,
Advocates

For the Management : Mr. V.R. Gopalrathnam,
Advocate

AWARD

The Central Government, Ministry of Labour vide Order No. L-12012/97/2005-IR (B-I) dated 27-4-2003 has

referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows:—

“Whether the action of the State Bank of India, in dismissal from services of Shri R. Subbiah is justified? if not what relief he is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 44/2005 and notices were issued to both the parties and they have entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner was initially appointed in the Respondent/Management as a cashier and he has served for more than 27 years and he has lastly worked in Kurumbur Branch of the Respondent/Management. While he was working as Assistant (cash) at Melailanthaikulam branch, a complaint was given against him by one Mr. M. Doss, but subsequently, the said Mr. Doss withdrew his complaint against the Petitioner. However, on 3-11-98 the Petitioner was transferred to Kurumbur branch and the Respondent/Bank has also issued a memo dated 27-11-98 containing certain allegations that the Petitioner had used abusive and filthy language, against a customer of the branch Mr. M. Doss and after receipt of the memo, the Petitioner submitted his reply denying the allegation. But not satisfied with the explanation, the Respondent/Bank has issued charge sheet dated 8-2-99 containing three charges that the Petitioner's behaviour with Mr. Doss, who was a customer of the bank and further alleged that he has allegedly used abusive and filthy language against Mr. Doss and alleged that it amounts to gross misconduct. The Enquiry Officer was posted and after enquiry, he submitted his report on 8-4-2001, wherein he has held the charges levelled against the Petitioner were proved. But the findings of the Enquiry Officer are not at all supported by any concrete evidence. The complainant also deposed that the contents of the complaint against the Petitioner are not true and he further requested not to give any credence to his complaint. Even inspite of this evidence and even in spite of the withdrawal of earlier complaint, the Enquiry Officer without applying his mind ignoring the deposition made by the complainant, primarily relied on the said complaint given by Mr. Doss and has come to a wrong conclusion. Basing on the said findings of the Enquiry Officer, the Disciplinary Authority passed the final order dated 30-11-2001 imposing the punishment of dismissal without notice from service. The said order does not contain any detailed analysis of the evidence adduced during the enquiry and the various contentions raised by the Petitioner. Even the appeal preferred by the Petitioner has been rejected and the Appellate Authority has confirmed the punishment of dismissal without notice passed by the Disciplinary Authority. The Appellate

Authority has passed a non-speaking order and hence, the Petitioner has raised this dispute before Assistant Labour Commissioner (Central) and on failure of conciliation, the matter was referred to the Govt. But, the Government has not passed any order with regard to reference. Therefore, the Petitioner has approached the High Court in W. P.No. 34898/2004 and the High Court by its order dated 30-11-2004 disposed of the Writ Petition. Thereafter, the Government has referred this matter to this Tribunal. The findings of the Appellate Authority and Disciplinary Authority are perverse and arbitrary and the findings are based on no evidence at all. The complainant had withdrawn his complaint even before the enquiry had commenced. Therefore, initiation of disciplinary proceedings is in total violation of principles of natural justice. The order is grossly and shockingly disproportionate to the charges framed against the Petitioner. Hence, for all these reasons, the Petitioner prays this Tribunal to pass an award to reinstate him in service with continuity of service and other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that it is false to allege that the Petitioner has put in unblemished service. Even before this incident, on 12-3-1985 an action was taken against the Petitioner for disciplinary proceedings and the Disciplinary Authority dismissed the Petitioner from service, after holding an enquiry for the misconduct of temporary misappropriation. The Appellate Authority, however, reinstated the Petitioner in service by modifying the punishment of dismissal into stoppage of two increments by his order dated 15-7-2005. Again, the Petitioner was chargesheeted for misconduct of wilful disobedience and insubordination when he was working at Ambasamudram branch as Asstt. Head Cashier. Even in that enquiry, the Disciplinary Authority imposed the punishment of dismissal without notice. But the Appellate Authority modified the punishment by placing the Petitioner as cashier with starting pay scale by an order dated 6-6-1992 and reinstated the Petitioner and the period from the date of dismissal to the date of reporting for duty on reinstatement was treated by Appellate Authority as break in service. It is false to state that Mr. Doss made a false complaint against the Petitioner or withdrew the same immediately. No doubt, the Petitioner influenced the complainant to withdraw the complaint. Even assuming that the complainant had subsequently withdrawn the complaint, it is entirely at the discretion of the Disciplinary Authority to drop the disciplinary action. The act of misbehaviour and riotous and indecent behaviour of the Petitioner towards a customer of the bank has the effect of affecting the bank and customer relationship and bank's reputation and such act was prejudicial to the interest of the bank. Therefore, the withdrawal of the complaint as alleged by the Petitioner does not in any way reduce the gravity of the misconduct as alleged against the Petitioner. It is false to allege that the

findings of the Enquiry Officer are not based on concrete evidence. It is also false to allege that the findings of the Appellate Authority and Disciplinary Authority are perverse or arbitrary. There is no violation of principles of natural justice and it is not true to say that the punishment is grossly disproportionate to the charges framed against him. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/Bank in dismissing the Petitioner from service is justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1:

6. The admitted facts in this case are that the Petitioner who was working as Assistant (Cash) at Melailanthaikulam branch, an incident had happened on 22-9-1998 in which one Mr. Doss has given a complaint against the Petitioner that he has abused him with filthy language and behaved in a rude manner and asked to get out of the bank. For which, an explanation was called for from the Respondent/Management and after the explanation of the Petitioner, the Respondent/Management initiated disciplinary proceedings against him. In the meantime, the complainant has written a letter dated 5-1-1999 that he has exaggerated in his complaint and action need not be taken against his complaint. But, the Respondent/Management proceeded with enquiry and the Enquiry Officer has given a finding that the charges framed against the Petitioner were proved and based on the said findings, the Disciplinary Authority has imposed the punishment of dismissal without notice which was also upheld by the Appellate Authority. The Petitioner challenged the orders passed by the Disciplinary Authority as well as Appellate Authority in this dispute.

7. On behalf of the Petitioner, 7 documents are marked as Ex.W1 to W7 and on the side of the Respondent/Management 20 documents are marked as Ex.M 1 to M 20 and no witness was examined on either side.

8. Learned counsel for the Petitioner contended that the findings of the Enquiry Officer are not at all supported by any evidence. The complainant who have given the complaint against the Petitioner has deposed that the contents of the complaint against the Petitioner are not true and further requested not to give credence against the said complaint and the prosecution witnesses who were examined on the side of the management also stated that the Petitioner has not misbehaved with the complainant. But, the Enquiry Officer based on the preliminary report has come to the unilateral conclusion that the incident has happened as alleged by the complainant in his letter dated 22-9-1998 and has given the finding that the charges framed against the Petitioner are proved, which is perverse and without any legal evidence and not valid and therefore, the

order passed by the Disciplinary Authority based on the findings given by Enquiry Officer are vitiated. Further, he argued that Appellate Authority also has not applied his mind and he has not given any reason for dismissing the appeal. Under such circumstances, perverse finding given by the Enquiry Officer and also the orders passed by Disciplinary Authority and Appellate Authority are arbitrary and the findings are based on no evidence and the findings are in total violation of principles of natural justice and the order of Disciplinary Authority as well Appellate Authority are speaking orders and do not contain any analysis of evidence or with the contentions raised during the enquiry and therefore, the order impugned is shockingly disproportionate to the charges levelled against the Petitioner, especially the Petitioner had put in 24 years of unblemished service in the Respondent/Bank.

9. No doubt, I find some force in the contention of the Petitioner. But, as against this, learned counsel for the Respondent contended that it is false to allege that the services of the Petitioner are unblemished. On the other hand, twice disciplinary action was taken against the Petitioner prior to this incident and on both these incidents, he was dismissed from service by the Disciplinary Authority and the Appellate Authority modified the orders and he has been reinstated in service with punishments. Therefore, it is false to allege that the service of the Petitioner is unblemished. Further, learned counsel for the Respondent contended that it is well-settled that the finding which is not supported by any legal evidence and the finding which may appear to be not supported by sufficient evidence or may be based on inadequate or unsatisfactory evidence and he argued that a wrong finding is not necessarily a perverse finding and a finding cannot be described to be preserved merely because it is possible to take a different view on the evidence, nor can a finding be called perverse because in certain matters, the line of reasoning adopted by the Enquiry Officer is not very cogent or logical. In this case, no doubt, the complainant has sent another letter three months after the first complaint that he has exaggerated the incident that had happened on 22-9-1998 and he has also requested the bank authorities not to proceed against the Petitioner on his complaint. But, on that ground it cannot be said that he has totally withdrawn the complaint as a false complaint. Even in his letter dated 5-1-1999 namely Ex. W2/M3, he has reiterated the incident that took place on 22-9-1998 that he was asked by the Petitioner to go out of the bank and also used filthy language and he says due to the circumstances shown by the Petitioner he has come to the conclusion and he has made all these things and he has asked the Respondent authorities not to proceed on the complaint. By this letter, it cannot be said that he has withdrawn the complaint as a false complaint. Further, the Enquiry Officer has given reason for giving two different versions by the witnesses who were examined in the enquiry. Though the

Petitioner's advocate has not accepted the reason given by the Enquiry Officer, it cannot be said that it is a perverse finding. Under such circumstances, even under Section 11A of the I.D. Act the Tribunal has got every power to modify the order passed by the Disciplinary Authority, in this case, the reasons given by the Petitioner to set aside the order passed by the Disciplinary Authority and Appellate Authority are not valid. Merely because the complainant has given different version and also sent a letter that no action need be taken against the complaint given by him, it cannot be said that he has withdrawn the complaint. Further, on any ground it cannot be said that the findings given by the Enquiry Officer are perverse and the order passed by the Disciplinary Authority and Appellate Authority are without any substance. In this case, there is evidence to prove that the Petitioner uttered words mentioned in the chargesheet and the Enquiry Officer has also given cogent reasons for accepting the management case. Under such circumstances, it cannot be said that the findings of the Enquiry Officer and the order passed by the Disciplinary Authority and Appellate Authority are perverse and arbitrary. He further contended that the act of misbehaviour and riotous conduct of the Petitioner towards a customer of the bank has the effect of affecting the relationship between the bank and customer and also the reputation of the Respondent/Bank and such act is prejudicial to the interest of the bank and therefore, the alleged withdrawal of the complaint by the Petitioner does not in any way reduce the gravity of the misconduct as alleged by the Petitioner. It is his further argument that misconduct alleged against the Petitioner for his riotous, disorderly, indecent behaviour towards a customer within the bank premises cannot be tolerated by a commercial organisation like the bank. Further, it is the look out of Disciplinary Authority to decide whether or not the disciplinary action should be dropped or proceeded against. In this case, the Disciplinary Authority having found the alleged misconduct is required to be enquired, has initiated the disciplinary proceedings and the Petitioner cannot question the same merely because the complainant has sent another letter withdrawing the complaint after issuance of the show cause notice to the Petitioner. The Enquiry Officer has given the reasons for his finding which was accepted by the Disciplinary Authority before imposing the punishment. The Appellate Authority also after going through the documents and after consideration of the representation made by the Petitioner has come to the conclusion and dismissed the appeal of the Petitioner. Under such circumstances, it cannot be said that the findings are perverse or arbitrary or illegal.

10. I find much force in the contention of the learned counsel for the Respondent. Though under Section 11A of the I.D. Act, this Tribunal has got every power to set aside the order passed by the Disciplinary Authority, the reasons given by the Petitioner to set aside the order passed

by the Disciplinary Authority cannot be accepted. Under such circumstances, I find the action of the Respondent/Bank in passing the order of dismissal of the Petitioner from service is justified. Therefore, I find this point against the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled?

11. In view of my foregoing findings, I find the Petitioner is not entitled to any relief. No Costs.

12. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 6th December, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Marked :—

For the I Party/Petitioner :—

Ex. No.	Date	Description
W1	29-06-98	Xerox copy of the appreciation letter given by Respondent/Bank.
W2	05-01-99	Xerox copy of the letter of withdrawal of complaint.
W3	05-01-99	Xerox copy of the letter from Branch Manager to AGM, Madurai.
W4	19-10-01	Xerox copy of the letter from Disciplinary Authority to Petitioner.
W5	23-01-02	Xerox copy of the letter from State Bank Staff. Union Deputy General Secretary to the General Secretary.
W6	21-01-02	Xerox copy of the disciplinary proceedings.
W7	31-01-03	Xerox copy of the failure of conciliation report.

For the II Party/Management :—

Ex. No.	Date	Description
M1	27-11-98	Xerox copy of the show cause notice issued to Petitioner.
M2	04-01-99	Xerox copy of the reply given by Petitioner to show cause Notice.
M3	Nil	Xerox copy of the letter from complaint.
M4	08-02-99	Xerox copy of the charge sheet issued to Petitioner.
M5	09-04-99	Xerox copy of the letter from Disciplinary Authority Appointing Enquiry Officer.
M6	30-08-00	Xerox copy of the letter from Disciplinary Authority Changing the Enquiry Officer.
M7	24-08-01	Xerox copy of the findings of Enquiry Officer.

M8	15-09-01	Xerox copy of the submission of Petitioner to the Findings of Enquiry Officer.
M9	27-11-01	Xerox copy of the written submissions before the Disciplinary Authority during personal hearing.
M10	30-11-01	Xerox copy of the order of Disciplinary Authority.
M11	05-02-02	Xerox copy of the final order passed by Appellate Authority.
M12	05-02-02	Xerox copy of the letter from Appellate Authority regarding Final order.
M13	15-07-85	Xerox copy of the order of dismissal passed by Disciplinary Authority.
M14	02-05-90	Xerox copy of the charge sheet issued to Petitioner.
M15	24-12-91	Xerox copy of the order of Disciplinary Authority proposed Punishment.
M16	24-12-91	Xerox copy of the order of Disciplinary Authority to Petitioner on proposed punishment.
M17	08-01-92	Xerox copy of the order of Disciplinary Authority.
M18	07-08-91	Xerox copy of the charge sheet issued by Disciplinary Authority.
M19	06-06-92	Xerox copy of the order of Appellate Authority.
M20	15-05-01 to 28-06-01	Xerox copy of the enquiry proceedings

नई दिल्ली, 16 जनवरी, 2007

का. आ. 268.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का. आ. 2962 दिनांक 19-7-2006 द्वारा बैंक नोट मुद्रणालय, देवास (म.प्र.) जोकि कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 22 के अन्तर्गत निर्दिष्ट किया गया है,— को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 19-7-2006 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि का छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 19-1-2007 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. सं. एस-11017/1/2006-आई आर (पी एल)]

गुरजोत कौर, संयुक्त सचिव

New Delhi, the 16th January, 2007

S.O. 268.—Whereas the Central Government having been satisfied that the public interest so requires that in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 2962 dated 19-07-2006 the service in Bank Note Press, Dewas which is covered by item 22 of the first Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 19th July, 2006.

And, whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the Proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a period of six months from the 19th January, 2007.

[F.No. S-11017/1/2006-IR (PL)]

GURJOT KAUR, Jt. Secy.

नई दिल्ली, 15 जनवरी, 2007

का. आ. 269.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 फरवरी, 2007 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप-धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :-

आन्ध्र प्रदेश राज्य के महबूबनगर जिले के 'अमनगल्लु' मण्डल में स्थित "अमनगल्लु" राजस्व गाँव के सीमा के अन्तर्गत सभी क्षेत्र।

[सं. एस-38013/02/2007-एस एस-1]

एस. दो. जेवियर, अवर सचिव

New Delhi, the 15th January, 2007

S.O. 269.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st February, 2007 as the date on which the provisions of Chapter IV (except Sections 44

and 45 which have already been brought into force) and Chapter-V and VI [except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely:—

All the areas falling within the limits of Revenue Village of "Amanagallu" in Amanagallu Mandal in Mahaboobnagar District of Andhra Pradesh.

[No. S-38013/02/2007-S S-I]

S.D. XAVIER, Under Secy.

नई दिल्ली, 15 जनवरी, 2007

का. आ. 270.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 फरवरी, 2007 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप-धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :-

आन्ध्र प्रदेश राज्य के महबूबनगर जिले के "कल्वकुर्ति" मण्डल में स्थित "कल्वकुर्ति" राजस्व गाँव की सीमा के अन्तर्गत सभी क्षेत्र।

[सं. एस-38013/03/2007-एस एस-1]

एस. दो. जेवियर, अवर सचिव

New Delhi, the 15th January, 2007

S.O. 270.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st February, 2007 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely:—

All the areas falling within the limits of Revenue Village of 'Kalwakurthy' of Kalwakurthy Mandal in Mahaboobnagar District of Andhra Pradesh.

[No. S-38013/03/2007-S S-I]

S.D. XAVIER, Under Secy.